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# EXAMINATION INDEX

PAGE NO.

<b>Jury Charge.....</b>	<b>5</b>
<b>Closing Arguments</b>	
By Ms. MacDonald.....	37
By Ms. Cogliano.....	85
By Mr. Morris.....	113
By Mr. Alaniz.....	134
<b>Jury Deliberates.....</b>	<b>144</b>

P R O C E E D I N G S

M O R N I N G   S E S S I O N

(June 22, 2022)

08:50AM THE COURT: All right. You will see that we added the overt acts as an appendix and then we added a special interrogatory so we actually have two special interrogatories after Issue 1, Count 1.

08:51AM MR. ALANIZ: The government has reviewed the jury charge, Your Honor; and we have no objection to the jury charge at all.

THE COURT: All right. Mr. Morris and Ms. Cogliano, are you okay with it?

MS. COGLIANO: Yes, Judge.

MR. MORRIS: Yes.

08:51AM MS. COGLIANO: Thank you.

THE COURT: All right. I just wanted to make sure. Let me a comment here. I am okay to a certain extent if you move around with two caveats.

08:51AM One, I don't want you crawling in the jury box; and two, you need to keep your voice up because, you know, as you've learned over the last eight or nine days, this courtroom has terrible acoustics. In fact, I'm trading courtrooms. As soon as this trial is over, I'm going next door because the acoustics are better.

08:52AM And the reason I say that, I see someone setting

1 up an easel and I'm fine with you going to the easel. But keep  
2 in mind that I have to hear you, the court reporter has to hear  
3 you, and the jury has to hear you, more important than even the  
4 court reporter and me.

08:52AM

5 All right. I'm going to step off for about 10  
6 minutes, come back, and we'll start.

7 (Court is in recess.)

09:04AM

8 THE COURT: Okay. Y'all can be seated. We were short  
9 a juror, but he's here now so we are ready to go. And it's  
10 9:04 so that's virtually on time; it's as close as we get.

11 COURTROOM SECURITY OFFICER: All rise for the jury.

12 (The jury entered the courtroom.)

13 THE COURT: All right. Ladies and gentlemen, be  
14 seated. Good morning.

09:05AM

15 Now is the most exciting time of trial. You get  
16 to listen to me read to you for 20 minutes.

17 As I said, some of these instructions will be a  
18 little wordy, but don't worry about it. We're going to give  
19 them to you. So when you go back and deliberate, you're going  
20 to each have your own copy of them to work through.

09:06AM

21 Members of the jury, in any jury trial there are  
22 in effect two judges. I'm one of the judges and the other is  
23 you, the jury. It is my duty and has been my duty to preside  
24 over the trial and to decide what evidence is proper for your  
25 consideration.

09:06AM

1           It is also my duty at the end of the trial to  
2 explain to you the rules of law that you must follow and apply  
3 in arriving at your verdict. First, I will give you some  
4 general instructions which apply in every case; for example,  
09:06AM 5 instructions about the burden of proof and how to judge the  
6 believability of the witnesses.

7           Then I will give you specific rules of law about  
8 this particular case. And then finally, I'll explain to you  
9 the procedures you should follow in your deliberations.

09:06AM 10           You, as jurors, are the judges of the facts. But  
11 in determining what actually happened, that is, in reaching  
12 your decisions as to the facts, it is your sworn duty to follow  
13 all the rules of law as I explain them to you.

14           You have no right to disregard or give special  
09:07AM 15 attention to any one instruction or to question the wisdom or  
16 correctness of any rule I may state to you.

17           You must not substitute or follow your own notion  
18 or opinion as to what the law is or ought to be. It is your  
19 duty to apply the law as I explain it to you regardless of the  
09:07AM 20 consequences.

21           It is also your duty to base your verdict solely  
22 upon the evidence without prejudice or sympathy. Do not let  
23 any bias, sympathy, or prejudice that you may feel toward one  
24 side or the other influence your decision in any way. That was  
09:07AM 25 the promise you made and the oath you took before being

1     accepted by the parties as jurors and they have a right to  
2     expect nothing less.

3             You have heard references to indictments and  
4     superseding indictments. Both serve as charging documents that  
09:08AM 5     begin the criminal proceedings against the defendant.

6             An indictment is a criminal charge issued by a  
7     grand jury. A superseding indictment is merely an indictment  
8     that has been amended and takes the place of the original  
9     indictment.

09:08AM 10            Neither an indictment nor a superseding  
11     indictment filed against the defendant is evidence of guilt.  
12     The defendant is presumed by the law to be innocent. The  
13     presumption of innocence means that the defendant starts the  
14     trial with a clean slate.

09:08AM 15            In other words, the defendant is presumed by you  
16     to be innocent throughout your deliberations until such a time  
17     as a jury you are satisfied that the government has proven the  
18     defendant guilty beyond a reasonable doubt.

19            Unless you are satisfied beyond a reasonable  
09:08AM 20     doubt that the defendant is guilty, that presumption alone is  
21     sufficient to find -- for you to find the defendant not guilty.

22            The government has the burden of proving the  
23     defendant guilty beyond a reasonable doubt and if it fails to  
24     do so, you must acquit the defendant. The burden of proof  
09:09AM 25     rests with the government throughout the entire case, and it

1 never shifts to the defendant.

2 These rules regarding the burden of proof apply  
3 to all questions on the verdict form, including the special  
4 interrogatories following the question regarding Count 1.

09:09AM

5 While the burden of proof -- while the  
6 government's burden of proof is a strict or heavy burden, it is  
7 not necessary that the defendant's guilt be proved beyond all  
8 possible doubt.

09:09AM

9 It is only required that the government's proof  
10 exclude any reasonable doubt concerning the defendant's guilt.  
11 A reasonable doubt is a doubt based upon reason and common  
12 sense after careful and impartial consideration of all the  
13 evidence in the case.

09:09AM

14 Proof beyond a reasonable doubt, therefore, is  
15 proof of such a convincing character that you would be willing  
16 to rely and act upon it without hesitation in the most  
17 important of your own affairs.

09:10AM

18 The superseding indictment charges that the  
19 offenses were committed in or around or on or about specified  
20 dates.

21 Count 1 alleges the conspiracy to possess with  
22 intent to distribute controlled substances began on or about  
23 April 1, 2011, and continued thereafter to on or about  
24 February 20, 2016.

09:10AM

25 Count 2 alleges that the conspiracy to kidnap



1 Felipe Guerra and Gerardo Olivarez began on or about  
2 May 1, 2011, to on or about May 28, 2011.

3 Count 3 alleges that the kidnapping of  
4 Ovidio Guerrero occurred on or about May 28, 2011. The  
09:10AM 5 government does not have to prove that the alleged crimes were  
6 committed on those exact dates, so long as the government  
7 proves beyond a reasonable doubt that the defendant committed  
8 the crimes on a date reasonably near the dates stated in the  
9 superseding indictment.

09:11AM 10 As I told you earlier, it is your duty to  
11 determine the facts. In doing so, you must consider only the  
12 evidence presented during the trial, including the sworn  
13 testimony of the witnesses, the stipulation of the parties, and  
14 the exhibits. Remember that any questions, statements,  
09:11AM 15 objections, or arguments made by the lawyers are not evidence.

16 The function of the lawyers is to point out those  
17 things that are most significant or most helpful to their side  
18 of the case and in doing so to call your attention to certain  
19 facts or inferences that might otherwise escape your notice.

09:11AM 20 In the final analysis, however, it is your own  
21 recollection and interpretation of the evidence that controls  
22 in the case. What the lawyers say is not binding upon you.

23 During the trial I sustained objections to  
24 certain questions. You must disregard those questions. Do not  
09:11AM 25 speculate as to what the witness would have said if permitted

1 to answer the question.

2 Your verdict must be based solely on the legally  
3 admissible evidence and testimony. Do not consider any  
4 testimony that I may have told you that you cannot consider.

09:12AM

5 Also do not assume from anything I may have done  
6 or said during the trial that I have any opinion concerning any  
7 of the issues in the case.

09:12AM

8 Except for the instructions to you on the law,  
9 you should disregard anything I may have said during the trial  
10 in arriving at your own findings as to the facts. If you took  
11 notes during the trial, your notes should be used only as  
12 memory aids. You should not give your notes precedence over  
13 your independent recollection of the evidence.

09:12AM

14 If you did not take notes, you should rely on  
15 your own independent recollection of the proceedings and you  
16 should not be influenced by the notes of the jurors -- of the  
17 other jurors.

09:12AM

18 Notes are not entitled to any greater weight than  
19 the memory or impression of each juror as to what the testimony  
20 may have been. Whether you took notes or not, each of you must  
21 form and express your own opinion as to the facts of the case.

09:13AM

22 You should not be concerned about whether the  
23 evidence is direct or circumstantial. Direct evidence is the  
24 testimony of one who asserts actual knowledge of a fact such as  
25 an eyewitness. Circumstantial evidence is proof of a chain of

1 events and circumstances indicating that something is or is not  
2 a fact.

3 The law makes no distinction between the weight  
4 you may give to either direct or circumstantial evidence. You  
09:13AM 5 should consider and weigh all of the evidence that was  
6 presented to you.

7 In considering the evidence, you're permitted to  
8 draw such reasonable inferences from the testimony and exhibits  
9 as you feel are justified in the light of common experience.

09:13AM 10 In other words, you may make deductions and reach  
11 conclusions that reason and common sense lead you to draw from  
12 the facts which have been established by the evidence.

13 I remind you it is your job to decide whether the  
14 government has proven the guilt of the defendant beyond a  
09:13AM 15 reasonable doubt. In doing so, you must consider all of the  
16 evidence.

17 This does not mean, however, that you must accept  
18 all of the evidence as true or accurate. You are the sole  
19 judges of the credibility or believability of each witness and  
09:14AM 20 the weight to be given the witness' testimony.

21 An important part of your job will be making  
22 judgments about the testimony of the witnesses who testified in  
23 this case. You should decide whether you believe all or any  
24 part of what each person had to say and how important that  
09:14AM 25 testimony was.

1 In making that decision, I suggest you ask  
2 yourself a few questions. Did the person impress you as  
3 honest? Did the witness have any particular reason not to tell  
4 the truth? Did the witness have a personal interest in the  
09:14AM 5 outcome of the case? Did the witness have any relationship  
6 with either the government or the defense? Did the witness  
7 seem to have a good memory? Did the witness clearly see or  
8 hear the things about which he or she testified? Did the  
9 witness have the opportunity and ability to understand the  
09:14AM 10 questions clearly and answer them directly? Did the witness's  
11 testimony differ from the testimony of other witnesses?

12 These are a few of the considerations that will  
13 help you to determine the accuracy of what each witness said.  
14 The testimony of the defendant should be weighed and his  
09:15AM 15 credibility evaluated in the same way as any other witness.

16 Your job is to think about the testimony of each  
17 witness you have heard and decide how much you believe of what  
18 each witness had to say. The testimony of any witness may be  
19 discredited by showing that the witness testified falsely  
09:15AM 20 concerning a material matter or by evidence that at some other  
21 time the witness said or did something or failed to say or do  
22 something which is inconsistent with the testimony the witness  
23 gave at the trial.

24 Earlier statements of the witness, Luis Miguel  
09:15AM 25 Hernandez, were not admitted in evidence to prove the

1 contents -- that the statements were true. You may not  
2 consider the earlier statements to prove that the content of an  
3 earlier statement is true. You may only use the earlier  
4 statement to determine whether you think the earlier statements  
09:16AM 5 are consistent or inconsistent with the testimony of the  
6 witness and therefore whether they affect the credibility of  
7 that witness.

8 If you believe that a witness has been  
9 discredited in this manner, it is your exclusive right to give  
09:16AM 10 the testimony of that witness whatever weight you think it  
11 deserves.

12 You have heard evidence of certain alleged acts  
13 involving the defendant which may be similar to those charged  
14 in the superseding indictment, but which were committed on  
09:16AM 15 other occasions. These acts were described by Ezequiel Mata,  
16 Pedro Estrada, and Ricardo Ramon.

17 Ezequiel Mata described marijuana loads he  
18 received from South Texas and transported to Michigan in 2009.  
19 Pedro Estrada described a search that was performed on the  
09:16AM 20 defendant's residence in Rio Grande City in 2007. And  
21 Ricardo Ramon described an interaction he had with the  
22 defendant when the defendant's vehicle was inspected at the  
23 Hidalgo port of entry in 2009.

24 You must not consider any of the evidence from  
09:17AM 25 these individuals in deciding if the defendant committed the

1 acts charged in the superseding indictment. However, you may  
2 consider the evidence -- giving it the weight you think it  
3 deserves -- for other very limited purposes.

4 With respect to the testimony of Ezequiel Mata,  
09:17AM 5 if you find beyond a reasonable doubt from other evidence in  
6 this case that the defendant committed the acts charged in the  
7 superseding indictment, then you may consider evidence of these  
8 similar acts allegedly committed on other occasions to  
9 determine whether the defendant had the knowledge, state of  
09:17AM 10 mind, or intent necessary to commit the crime charged in the  
11 superseding indictment. These are the limited purposes for  
12 which any evidence of these similar acts may be considered.

13 With respect to the testimony of Ricardo Ramon  
14 and Pedro Estrada, if you find beyond a reasonable doubt from  
09:17AM 15 other evidence in this case that the defendant did commit the  
16 acts charged in the superseding indictment, then you may  
17 consider evidence of these similar acts allegedly committed on  
18 other occasions to determine whether the defendant had the  
19 motive, opportunity, knowledge, state of mind, or intent  
09:18AM 20 necessary to commit the acts charged in the superseding  
21 indictment. These are the limited purposes for which any  
22 evidence of these similar acts may be considered.

23 You have been told that certain witnesses have  
24 been convicted of felonies. A conviction is a factor you may  
09:18AM 25 consider in deciding whether to believe that witness. It has

1       been brought to your attention only because you may wish to  
2       consider it when you decide whether you believe the witness's  
3       testimony. It is not evidence of anything else.

4               The testimony of one who provides evidence  
09:18AM 5       against a defendant as a confidential informant for pay, for  
6       immunity from punishment, or for personal advantage or  
7       vindication must always be examined and weighed by the jury  
8       with greater care and caution than the testimony of ordinary  
9       witnesses.

09:19AM 10              You, the jury, must decide whether the witness's  
11       testimony has been affected by these circumstances, by the  
12       witness's interest in the outcome of the case, by prejudice  
13       against the defendant, or by the benefits that the witness has  
14       received either financially or as a result of being immunized  
09:19AM 15       from prosecution. You should keep in mind that such testimony  
16       is always to be received with caution and weighed with great  
17       care.

18              You should never convict any defendant upon the  
19       unsupported testimony of any such witness unless you believe  
09:19AM 20       the testimony beyond a reasonable doubt.

21              In this case the government called several  
22       witnesses with whom the government has entered into contractual  
23       plea agreements who are alleged to be accomplices or  
24       co-defendants in this case or who were or are defendants in  
09:19AM 25       other cases.

1           The agreements provides -- the agreements  
2 provide -- my first typo -- I made it eight pages without a  
3 typo.

4           The agreements provide for nonbinding  
09:20AM 5 recommendations for a favorable sentence. Such plea  
6 bargaining, as it is called, has been approved as lawful and  
7 proper and is expressly provided for in the law.

8           An alleged accomplice, or a defendant in a  
9 different case, including the one who has entered into a plea  
09:20AM 10 agreement with the government, is not prohibited from  
11 testifying. On the contrary, the testimony of such a witness  
12 may alone be sufficient weight -- be of sufficient weight to  
13 sustain a verdict of guilty. You should keep in mind that such  
14 testimony is always to be received with caution and weighed  
09:20AM 15 with great care. You should never convict a defendant upon the  
16 unsupported testimony of an alleged accomplice unless you  
17 believe that testimony beyond a reasonable doubt.

18           The fact that an accomplice has entered a plea of  
19 guilty to an offense charged is not evidence of the guilt of  
09:20AM 20 any other person.

21           When a chart or summary, or in this case a  
22 calendar, has been received into evidence, you should give them  
23 only the weight you think they deserve.

24           You are here to decide whether the government has  
09:21AM 25 proved beyond a reasonable doubt that the defendant is guilty



1 of the crimes charged. The defendant is not on trial for any  
2 act, conduct, or offense not alleged in the superseding  
3 indictment. Neither are you concerned with the guilt or  
4 innocence of any other person or persons not on trial as a  
09:21AM 5 defendant in this case.

6 In making up your mind and reaching a verdict, do  
7 not make any decisions simply because there were more witnesses  
8 on one side than on the other. Do not reach a conclusion on a  
9 particular point just because there were more witnesses  
09:21AM 10 testifying for one side on that point.

11 You will always bear in mind, however, that the  
12 law never imposes upon a defendant in a criminal case the  
13 burden or duty of calling any witnesses or producing any  
14 evidence.

09:21AM 15 A separate crime is charged in each count of the  
16 superseding indictment. Each count and the evidence pertaining  
17 to it should be considered separately. The fact that you may  
18 find the defendant guilty or not guilty as to one of the crimes  
19 charged should not control your verdict as to any other.

09:22AM 20 If the defendant is found guilty, it will be my  
21 duty to decide what the punishment will be. You should not be  
22 concerned with punishment in any way. It should not enter your  
23 consideration or discussion.

24 All right. Those are general rules which pertain  
09:22AM 25 primarily in -- or almost always in cases. Now I want to talk

1 to you about specifically the instructions involving the  
2 questions you have to answer.

3 Count 1.

4 Count 1 of the superseding indictment charges the  
09:22AM 5 defendant with conspiracy to possess with intent to distribute  
6 cocaine and marijuana. Title 21, United States Code,  
7 Section 846, makes it a crime for anyone to conspire with  
8 someone else to commit a violation of certain controlled  
9 substances laws of the United States.

09:22AM 10 In this case, the defendant is charged with  
11 conspiring to possess with intent to distribute a controlled  
12 substance, that is, cocaine and marijuana.

13 The object of the conspiracy was to possess with  
14 intent to distribute a controlled substance.

09:23AM 15 The elements of the crime of possession with  
16 intent to distribute a controlled substance are:

17 First, that an individual knowingly possessed a  
18 controlled substance.

19 Second, that the substance was, in fact, cocaine  
09:23AM 20 or marijuana.

21 And third, that the individual possessed the  
22 substance with the intent to distribute it.

23 Cocaine and marijuana are controlled substances  
24 within the meaning of the law.

09:23AM 25 For you to find Lee Roy Villarreal guilty of the

1 crime of conspiracy, you must find that the government has  
2 proved each of the following beyond a reasonable doubt:

3 First, that two or more persons, directly or  
4 indirectly, reached an agreement to possess with intent to  
09:23AM 5 distribute cocaine or marijuana.

6 Second, that Lee Roy Villarreal knew of the  
7 unlawful purpose of the agreement.

8 And third, that Lee Roy Villarreal joined in the  
9 agreement willfully, that is, with the intent to further its  
09:23AM 10 unlawful purpose.

11 Fourth, that the overall scope of the conspiracy  
12 involved at least 5 kilograms of a mixture or substance  
13 containing a detectable amount of cocaine or more than a  
14 thousand kilograms of a mixture or substance containing a  
09:24AM 15 detectable amount of marijuana.

16 And fifth, that Lee Roy Villarreal knew or  
17 reasonably should known that the scope of the conspiracy  
18 involved at least 5 kilograms of a mixture or substance  
19 containing a detectable amount of cocaine or more than a  
09:24AM 20 thousand kilograms of a mixture or substance containing a  
21 detectable amount of marijuana.

22 To "possess with intent to distribute" simply  
23 means to possess with intent to deliver or transfer possession  
24 of a controlled substance to another person, with or without  
09:24AM 25 any financial interest in the transaction.

1 "Possession," as that term is used in the  
2 instructions, may be of two kinds: Actual possession or  
3 constructive possession.

4 A person who knowingly has direct physical  
09:24AM 5 control over a thing at a given time is in actual possession of  
6 it.

7 A person who, although not in actual possession,  
8 knowingly has both the power and the intention at a given time  
9 to exercise dominion or control over a thing, either directly  
09:25AM 10 or through another person or persons, is in constructive  
11 possession of it.

12 Possession may be sole or joint. If one person  
13 alone has actual or constructive possession of a thing,  
14 possession is sole. If two or more persons share actual or  
09:25AM 15 constructive possession of a thing, possession is joint.

16 You may find that the element of possession is  
17 present if you find beyond a reasonable doubt that the  
18 defendant had actual or constructive possession, either alone  
19 or jointly with others.

09:25AM 20 The word "knowingly," as that term has been used  
21 from time to time in these instructions, means that the act was  
22 done voluntarily and intentionally, not because of an accident  
23 or mistake.

24 The word "willfully," as that term is used from  
09:25AM 25 time to time in these instructions, means that the act was

1 committed voluntarily and purposely with the specific intent to  
2 do something that the law forbids; that is to say with bad  
3 purpose, either to disobey or disregard the law.

4 Now, a conspiracy is an agreement between two or  
09:26AM 5 more persons to join together to accomplish some unlawful  
6 purpose. It is a kind of partnership in crime in which each  
7 member becomes the agent of every other member.

8 One may become a member of a conspiracy without  
9 knowing all the details of the unlawful scheme or the  
09:26AM 10 identities of all the other alleged conspirators. If a  
11 defendant understands the nature -- the unlawful nature of a  
12 plan or scheme and knowingly and intentionally joins in that  
13 plan or scheme on one occasion, that is sufficient to convict  
14 him for conspiracy even though the defendant had not  
09:26AM 15 participated before and even though the defendant played only a  
16 minor part.

17 The government need not prove that the alleged  
18 conspirators entered into any formal agreement, nor that they  
19 directly stated between themselves all the details of the  
09:26AM 20 scheme.

21 Similarly, the government need not prove that all  
22 the details of the scheme alleged in the superseding indictment  
23 were actually agreed upon or carried out, nor must it prove  
24 that all of the persons alleged to have been members of the  
09:27AM 25 conspiracy were such, or that the alleged conspirators actually

1 succeeded in accomplishing their unlawful objectives.

2 Now, mere presence at the scene of an event, even  
3 with the knowledge a crime is being committed or the mere fact  
4 that certain persons may have associated with each other and  
09:27AM 5 may have assembled together and discussed common aims and  
6 interests does not necessarily establish proof of the existence  
7 of a conspiracy.

8 A person who has no knowledge of a conspiracy,  
9 but who happens to act in a way that advances some purpose of  
09:27AM 10 the conspiracy, does not thereby become a conspirator. You  
11 must determine whether the conspiracy charged in the indictment  
12 existed and, if it did, whether the defendant was a member of  
13 it. If you find that the conspiracy charge did not exist, then  
14 you must return a not guilty verdict, even though you may find  
09:28AM 15 that some other conspiracy existed. If you find that the  
16 defendant was not a member of the conspiracy charged in the  
17 indictment, then you must find the defendant not guilty, even  
18 though the defendant may have been a member of some other  
19 conspiracy.

09:28AM 20 Count 2.

21 Count 2 of the superseding indictment charges  
22 Lee Roy Villarreal with conspiracy to kidnap Felipe Guerra and  
23 Gerardo Olivarez. Title 18, United States Code,  
24 Section 1201(c), makes it a crime for two or more persons to  
09:28AM 25 conspire to commit the offense of kidnapping against the laws

1 of the United States.

2 For you to find Lee Roy Villarreal guilty of the  
3 crime, you must be convinced that the government has proved  
4 each of the following beyond a reasonable doubt:

09:28AM

5 First, that two or more persons, directly or  
6 indirectly, reached an agreement to commit the crime of  
7 kidnapping Felipe Guerra or Gerardo Olivarez.

8 Second -- second typo.

09:29AM

9 Second, Lee Roy Villarreal knew of the unlawful  
10 purpose of the agreement.

11 Third, that Lee Roy Villarreal joined in the  
12 agreement willfully, this is, with the intent to further its  
13 unlawful purpose.

09:29AM

14 And fourth, that at least one of the conspirators  
15 during the existence of the conspiracy knowingly committed at  
16 least one overt act charged in the superseding indictment in  
17 order to accomplish some object or purpose of the conspiracy.

09:29AM

18 Now, a list of the overt acts charged in the  
19 superseding indictment regarding Count 2 is attached hereto as  
20 Appendix A.

21 Let me read Appendix A to you right now.

22 Appendix A: List of Alleged Overt Acts As  
23 Charged in the Superseding Indictment Regarding Count 2.

09:30AM

24 One, on or about early May 2011,  
25 Miguel Villarreal told Jesus Fernando Gonzales that unknown

1 persons stole kilograms of cocaine from a stash house in the  
2 Mission, Texas, area.

3 Two, on or about early May 2011,  
4 Miguel Villarreal told Jesus Fernando Gonzalez to call him if  
09:30AM 5 he learned a person selling kilograms of cocaine at a cheap  
6 price.

7 Three, on or about early May 11, 2011,  
8 Jesus Fernando Gonzalez told Miguel Villarreal that  
9 Francisco Licea-Guerrero was selling kilograms of cocaine at a  
09:30AM 10 cheap price.

11 Four, on or about early May 2011,  
12 Miguel Villarreal sent Alan Alpizar-Cordoba to the  
13 United States to investigate the theft of the cocaine.

14 Five, on or about early May 2011,  
09:30AM 15 Miguel Villarreal sent Hector Gabriel Barrios-Hernandez to the  
16 United States to investigate the theft of the cocaine.

17 Six, on or about early May 2011, Jesus  
18 Fernando Gonzalez introduced Hector Gabriel Barrios-Hernandez  
19 to Francisco Licea-Guerrero.

09:31AM 20 Seven, on or about early May 2011,  
21 Lee Roy Villarreal met with the conspirators at Jesus Fernando  
22 Gonzalez's mechanic shop.

23 Eight, on or about mid-May 2011, Raul Garza  
24 stored firearms at Guadalupe Gonzalez's residence.

09:31AM 25 Nine, on or about mid-May 2011,



1 Lee Roy Villarreal met with the conspirators at  
2 Guadalupe Gonzalez's residence.

3 Ten, on or about mid-May 2011, Arturo Armendariz  
4 sold one kilogram of cocaine to Francisco Licea Guerrero.

09:31AM

5 11, on or about mid-May 2011, Arturo Armendariz  
6 told two kilograms of cocaine to Hector Gabriel  
7 Barrios-Hernandez.

09:32AM

8 12, on or about mid-May 2011, FNU, which is first  
9 name unknown, LNU, which is last name unknown, a/k/a Chiapas,  
10 shot Arturo Armendariz.

11 13, on or about mid-May 2011, Arturo Armendariz  
12 told Hector Gabriel Barrios-Hernandez that Felipe Guerra and  
13 Gerardo Olivarez gave him the three kilograms of cocaine.

09:32AM

14 14, on or about mid-May 2011, Lee Roy Villarreal  
15 met with conspirators at a residence located on Trosper Road in  
16 Alton, Texas area.

17 15, on or about mid-May 2011, Lee Roy Villarreal  
18 showed conspirators how to use firearms to commit the  
19 kidnappings.

09:32AM

20 16, on or about mid-May 2011, Lee Roy Villarreal  
21 showed conspirators how to use duct tape to commit the  
22 kidnappings.

23 17, on or about mid-May 2011, Roel Garza  
24 attempted to kidnap Felipe Guerra.

09:33AM

25 18, on or about mid-May 2011, Victor Romero

1 attempted to kidnap Felipe Guerra.

2 19, on or about May 28, 2011, Lee Roy Villarreal  
3 met with the conspirators at a residence located on Trosper  
4 Road in the Alton, Texas area.

09:33AM

5 20, on or about May 28, 2011, Gerardo Villarreal  
6 drove a Ford truck to Gerardo Olivarez's residence.

7 21, on or about May 28, 2011, Gerardo Villarreal  
8 possessed a firearm.

09:33AM

9 22, on or about May 28, 2011, Jose Lorenzo Davila  
10 handcuffed Ovidio Guerrero.

11 23, on or about May 28th, Jose Lorenzo Davila put  
12 Ovidio Guerrero inside the Ford truck.

09:34AM

13 24, on or about May 28, 2011, Gerardo Villarreal  
14 transported Ovidio Guerrero to the residence located on Trosper  
15 Road in the Alton, Texas area.

16 25, on or about May 28, 2011,  
17 Alan Alpizar-Cordoba conducted surveillance during the  
18 kidnapping of Ovidio Guerrero.

09:34AM

19 26, on or about May 28, 2011,  
20 Alan Alpizar-Cordoba possessed a firearm.

21 27, on or about May 28, 2011, Hector Gabriel  
22 Barrios-Hernandez conducted surveillance during the kidnapping  
23 of Ovidio Guerrero.

09:34AM

24 28, on or about May 28, 2011, Roel Garza  
25 conducted surveillance during the kidnapping of

1 Ovidio Guerrero.

2 29, on or about May 28, 2011, Roel Garza  
3 possessed a firearm.

4 30, on or about May 28, 2011, Orlando Hernandez  
5 conducted surveillance during the kidnapping of  
6 Ovidio Guerrero.

09:34AM

7 31, on or about May 28, 2011, Orlando Hernandez  
8 possessed a firearm.

9 32, on or about May 28, 2011, first name unknown,  
10 last name unknown a/k/a Chiapas, a/k/a, also known as Chiapas,  
11 conducted surveillance during the kidnapping of  
12 Ovidio Guerrero.

09:35AM

13 On or about May 28th -- this is 33. On or about  
14 May 28, 2011, first name unknown, last name unknown a/k/a  
15 Chiapas possessed a firearm.

09:35AM

16 34, on or about May 28, 2011, first name unknown,  
17 last name unknown a/k/a Payaso conducted surveillance during  
18 the kidnapping of Ovidio Guerrero.

19 35, on or about May 28, 2011, first name unknown,  
20 last name unknown a/k/a Payaso possessed a firearm.

09:35AM

21 36, on or about May 28, 2011, Jose Lorenzo Davila  
22 transported Ovidio Guerrero to Orlando Hernandez's residence in  
23 Rio Grande City.

24 37, on or about May 28, 2011, Jose Guadalupe  
25 Garza-Ochoa transported Ovidio Guerrero to the banks of the

09:36AM

1 Rio Grande River.

2 All right. And those are the overt -- alleged  
3 overt acts listed in Appendix A.

4 All right. Back to Count 2.

09:36AM

5 The word "knowingly," as that term is used from  
6 time to time in the instructions, means that the act was done  
7 voluntarily and intentionally, not because of an accident or  
8 mistake.

09:36AM

9 The word "willfully," as that term has been used  
10 from time to time, means that the act was committed voluntarily  
11 and purposely with the specific intent to do something that the  
12 law forbids; that is to say, with bad purpose either to disobey  
13 or disregard the law.

09:36AM

14 A conspiracy, just like it was in the Count 1, is  
15 an agreement between two or more persons to join together to  
16 accomplish some unlawful purpose.

09:37AM

17 It is the kind of partnership in crime in which  
18 each member becomes the agent of every other member. One may  
19 become a member of the conspiracy without knowing all of the  
20 details of the unlawful scheme or the identities of all the  
21 other alleged conspirators.

09:37AM

22 If a defendant understands the unlawful nature of  
23 a plan or scheme and knowingly and intentionally joins in that  
24 plan or scheme on one occasion, that is sufficient to convict  
25 him for conspiracy even though the defendant had not

1 participated before and even though the defendant played only a  
2 minor role.

3 The government may not -- excuse me. The  
4 government need not prove that the alleged conspirators entered  
09:37AM 5 into any formal agreement, nor that they directly stated  
6 between themselves all the details of the scheme.

7 Similarly, the government need not prove that all  
8 the details of the scheme alleged in the superseding indictment  
9 were actually agreed upon or carried out, nor must it prove  
09:37AM 10 that all of the persons alleged to have been members of the  
11 conspiracy were such or that the alleged conspirators actually  
12 succeeded in accomplishing their unlawful objectives.

13 Mere presence at the scene of an event, even with  
14 the knowledge that a crime is being committed or the mere fact  
09:38AM 15 that certain people may have associated with each other and may  
16 have assembled together and discussed common aims and interests  
17 does not necessarily establish proof of the existence of a  
18 conspiracy.

19 A person who has no knowledge of a conspiracy,  
09:38AM 20 but also -- but who happens to act in a way that advances some  
21 purpose of the conspiracy, does not thereby become a  
22 conspirator.

23 You must determine whether the conspiracy charged  
24 in the indictment existed and if it did, whether the defendant  
09:38AM 25 was a member of it. If you find that the conspiracy charge did

1 not exist, then you must return a not guilty verdict even  
2 though you find that some other conspiracy existed. If you  
3 find that the defendant was not a member of the conspiracy  
4 charged in the indictment, then you must find the defendant not  
09:38AM 5 guilty, even though the defendant may have been a member of  
6 some other conspiracy.

7 Count 3.

8 Count 3 of the superseding indictment charges  
9 Lee Roy Villarreal with kidnapping or aiding and abetting the  
09:39AM 10 kidnapping of Ovidio Guerrero. Title 18, United States Code,  
11 Section 1201(a)(1) makes it a crime for anyone to unlawful  
12 kidnap another person in or affecting interstate or foreign  
13 commerce for some reward, purpose, or benefit.

14 Title 18, United States Code, Section 2 makes it  
09:39AM 15 a crime to aid and abet others in committing this crime. For  
16 you to find Lee Roy Villarreal guilty of this crime, you must  
17 be convinced that the government has proved each of the  
18 following beyond a reasonable doubt:

19 First, that Lee Roy Villarreal, knowingly acting  
09:39AM 20 contrary to the law, kidnapped Ovidio Guerrero as charged.

21 Second, that Lee Roy Villarreal kidnapped  
22 Ovidio Guerrero for some reward or purpose or benefit.

23 Third, that Lee Roy Villarreal transported or  
24 kidnapped Ovidio Guerrero without his consent.

09:39AM 25 And fourth, that Lee Roy Villarreal willingly

1 transported Ovidio Guerrero and such transportation was in  
2 interstate or foreign commerce.

3 The word "knowingly," as that term is used from  
4 time to time in the instructions, means the act was done  
09:40AM 5 voluntarily and intentionally, not because of an accident or  
6 mistake.

7 To "kidnap" a person means to unlawfully hold,  
8 keep, detain, or confine the person against his will and  
9 without his consent. Involuntariness or coercion in connection  
09:40AM 10 with the victims's detention is an essential part of the  
11 offense.

12 The word "willfully," as that term is used from  
13 time to time in the instructions, means that the act was  
14 committed voluntarily and purposely, with the specific intent  
09:40AM 15 to do something that the law forbids; that is to say, with bad  
16 purpose either to disobey the law or to disregard the law.

17 Commerce includes travel, trade, transportation,  
18 and communication.

19 Foreign commerce means commerce or travel between  
09:40AM 20 any part of the United States, including its territorial  
21 waters, and any other country, including its territorial  
22 waters.

23 The government need not prove that  
24 Lee Roy Villarreal knew he was transporting Ovidio Guerrero in  
09:41AM 25 interstate or foreign commerce, only that he did.

1                   For you to find Lee Roy Villarreal guilty of  
2                   Count 3, kidnapping, it is not necessarily -- it is not  
3                   necessary for you to find the defendant personally did every  
4                   act constituting the offense alleged. The law recognizes that  
5                   ordinarily anything a person can do for himself may also be  
6                   accomplished by him through the direction of another person as  
7                   his or her agent or by acting in concert with or under the  
8                   direction of another person or persons in a joint effort or  
9                   enterprise.

10                   This is sometimes referred to as aiding and  
11                   abetting. If a person is acting under the direction of the  
12                   defendant or if the defendant joins another person and performs  
13                   acts with the intent to commit a crime, then the law holds the  
14                   defendant responsible for the acts and conduct of such other  
15                   persons just as though the defendant had committed the acts or  
16                   engaged in such conduct.

17                   Before any defendant may be held criminally  
18                   responsible for the acts of others, it is necessary that the  
19                   accused deliberately associate himself in some way with the  
20                   crime and participated in it with the intent to bring about the  
21                   crime.

22                   Of course, mere presence at the scene of a crime  
23                   and knowledge that a crime is being committed are not  
24                   sufficient to establish the defendant either directed or aided  
25                   and abetted the crime, unless you find beyond a reasonable



1 doubt, that the defendant was a participant and not a knowing  
2 spectator.

3 In other words, you may not find the defendant  
4 guilty beyond a reasonable doubt -- you may not find the  
09:42AM 5 defendant guilty unless you find beyond a reasonable doubt that  
6 every element of the offense as defined in these instructions  
7 was committed by some person or persons and that the defendant  
8 voluntarily participated in its commission with the intent to  
9 violate the law.

09:43AM 10 For you to find the defendant guilty of this  
11 crime, you must be convinced that the government has proved  
12 each of the following beyond a reasonable doubt:

13 First, that the offense in question was committed  
14 by some person.

09:43AM 15 That the defendant associated with the criminal  
16 venture.

17 That the defendant purposely participated in the  
18 criminal venture.

19 And that the defendant sought by action to make  
09:43AM 20 the venture successful.

21 "To associate with the criminal venture" means  
22 that the defendant shared the criminal intent of the principal.  
23 This element cannot be established if the defendant had no  
24 knowledge of the principal's criminal venture.

09:43AM 25 To participate in the criminal venture means that

1 the defendant engaged in some affirmative conduct designed to  
2 aid the venture or assisted the principal of the crime.

3 All right. Those are the specific instructions.  
4 Now I'm going to give you some brief instructions about how to  
09:43AM 5 conduct your deliberations.

6 To reach a verdict, whether it is guilty or not  
7 guilty, all of you must agree. Your verdict must be unanimous  
8 on each count of the superseding indictment. Your  
9 deliberations will be secret. You will never have to explain  
09:44AM 10 your verdict to anyone.

11 It is your duty to consult with one another and  
12 to deliberate in an effort to reach an agreement if you can do  
13 so. Each of you must decide the case for yourself, but only  
14 after an impartial consideration of the evidence with your  
09:44AM 15 fellow jurors.

16 During your deliberations, do not hesitate to  
17 reexamine your own opinions and change your mind if convinced  
18 you were wrong, but do not give up your honest beliefs as to  
19 the weight or effect of the evidence solely because of the  
09:44AM 20 opinion of your fellow jurors or for the mere purpose of  
21 returning a verdict.

22 Remember at all times, you are judges -- judges  
23 of the facts. Your duty is to decide whether the government  
24 has proved the defendant guilty beyond a reasonable doubt.

09:44AM 25 Now, when you go to the jury room, the first

1     thing you should do is select one of your number as the  
2     foreperson, who will guide your deliberations and will speak  
3     for you here in the courtroom.

4             A verdict form has been prepared for your  
09:44AM 5     convenience. The foreperson will write the unanimous answer in  
6     the space provided for each count of the superseding  
7     indictment, either guilty or not guilty. At the conclusion of  
8     your deliberations, the foreperson should date and sign the  
9     verdict and inform the Court in writing that a verdict has been  
09:45AM 10    reached.

11            If you need to communicate with me during your  
12     deliberations, the foreperson should write a message and give  
13     it to the court security officer and I will either reply in  
14     writing or bring you back in the court to answer your message.

09:45AM 15           Bear in mind that you are not to reveal to any  
16     person, not even to the Court, to me, how the jury stands,  
17     numerically or otherwise, on any count of the superseding  
18     indictment until after you have reached a unanimous verdict.

19            Those are the instructions. And then there is a  
09:45AM 20     verdict form. And you will be pleased to know the verdict form  
21     is actually brief.

22            All right. The verdict form consists of  
23     basically five questions.

24            Count 1. We, the jury, unanimously find the  
09:46AM 25     defendant Lee Roy Villarreal: And then Count 1: Conspiracy to

1 distribute and dispense controlled substances. There's a blank  
2 for guilty or not guilty.

3 And then if you find the defendant guilty beyond  
4 a reasonable doubt on Count 1, then answer the following  
09:46AM 5 special interrogatories.

6 If you find the defendant not guilty on Count 1,  
7 then go directly to Count 2.

8 And the special interrogatories are: "Please  
9 check the controlled substances for which you unanimously found  
09:46AM 10 the defendant guilty beyond a reasonable doubt on Count 1."

11 There's a blank for cocaine and a blank for  
12 marijuana.

13 Then the second question that goes with Count 1  
14 is: "For each controlled substance you checked on Special  
09:46AM 15 Interrogatory Number 1, please check the amount of the  
16 controlled substance for which you unanimously find the  
17 defendant knew or reasonably should have known that the scope  
18 of the conspiracy in Count 1 involved:"

19 And then it's divided into cocaine and marijuana.  
09:46AM 20 And then each has a blank for more than 5 kilograms, more than  
21 500 grams but less than 5 kilograms, and less than 500 grams  
22 for the cocaine.

23 And on the marijuana side, it's more than a  
24 thousand kilograms, more than a hundred kilograms but less than  
09:47AM 25 a thousand, and then less than a hundred kilograms.

1 And then you go Count 2.

2 Count 2, we, the jury, unanimously find  
3 Lee Roy Villarreal -- and then it's conspiracy to kidnap  
4 Felipe Guerra and Gerardo Olivarez and a blank for guilty or  
09:47AM 5 not guilty.

6 And once you've answered Count 2, you go Count 3.  
7 And there's: We, the jury, unanimously find the defendant  
8 Lee Roy Villarreal guilty or not guilty of kidnapping  
9 Ovidio Guerrero. A blank for guilty or not guilty.

09:47AM 10 And then after you've answered Count 3, you go  
11 the end of the verdict form and the foreperson dates and signs  
12 the verdict.

13 Those are the instructions. The law requires me  
14 to read them to you. I know it was thrilling, but you'll have  
09:48AM 15 these with you. And that's the main thing. You're going to  
16 have these. If you need an instruction, if you need a  
17 definition, they're in these. And when you work through the  
18 evidence, you will be able to foresee.

19 All right. Now it's time for final argument of  
09:48AM 20 counsel. Mr. Alaniz, who is going to lead off for the  
21 government?

22 MS. MACDONALD: I will, Your Honor.

23 THE COURT: All right. Ms. MacDonald.

24 MS. MACDONALD: May it please the Court and counsel for  
09:48AM 25 defense.

1                   Members of the jury, good morning. We've made  
2                   it.

3                   I told you at the beginning of trial that this  
4                   case is about the dirty business of drug trafficking and greed  
09:48AM 5                   and how those two things led this defendant,  
6                   Lee Roy Villarreal, to get involved in a kidnapping and a  
7                   conspiracy to kidnap that we've been hearing about for the last  
8                   week.

9                   Where Gringo Mike, the defendant's brother sent a  
09:48AM 10                  group of sicarios, hit men, along with the defendant, to target  
11                  three men for kidnapping and death because they believed those  
12                  men stole cocaine from the Gulf Cartel.

13                  The evidence at trial has established that  
14                  Felipe Guerra was actually targeted for kidnapping. The  
09:49AM 15                  evidence at trial has established that Gerardo Olivarez was  
16                  targeted for kidnapping. And the evidence has established that  
17                  Ovidio Guerrero was actually kidnapped, abducted against his  
18                  will, restrained, handcuffed, interrogated, beaten, stuffed  
19                  into a truck of a car, driven an hour to the river, taken into  
09:49AM 20                  the arms of armed hit men, crossed into the river, and brought  
21                  to this defendant's brother, where he was never seen again.

22                  The evidence will establish that this was a group  
23                  effort; people who worked together to accomplish a goal; and  
24                  under the law, we call that a conspiracy.

09:49AM 25                  The only issue left for you to decide today is

1 whether or not the defendant himself was involved, and the  
2 evidence has proven he was.

3 They say that no lawyer can speak as eloquently  
4 as the evidence and I know I can't. So let's start by  
09:50AM 5 reviewing the evidence that we've heard.

6 Can we please have Slide 1?

7 I want to start by talking to you about the  
8 evidence you-all heard about drug trafficking, the drug  
9 trafficking activities of the defendant. Let's start with the  
09:50AM 10 evidence about what was going on in 2012 before Gringo Mike,  
11 the defendant's cartel brother boss, was killed.

12 You heard from Jose Romo. Jose Romo knows the  
13 defendant. Jose Romo is from Rio Grande City. He used to see  
14 the defendant around town. He told you he saw them at parties.

09:50AM 15 He remembers seeing him and remembers who he was  
16 because they both were dating women that worked at Hooters. Do  
17 you remember that? They were both dating waitresses. The  
18 defendant was dating a woman named Laura. This was around  
19 2010, 2011.

09:50AM 20 I asked the defendant on cross-examination: Did  
21 you ever date a woman named Laura?

22 What did he tell me?

23 It's possible.

24 Anyway, Joey knows the defendant. They know each  
09:50AM 25 other from town.

1                   At this point Jose Romo doesn't know that the  
2 defendant is involved in drug trafficking. Now, Joe Romo  
3 admits he himself was. He's working with Gringo Mike in  
4 Mexico. There comes a time where Gringo says: I want you to  
5 start working with my brother. He's over there in the  
6 United States in Rio Grande City. He's going to give you a  
7 hundred thousand dollars in cash. Go get it.

8                   The defendant drops off a hundred thousand  
9 dollars in cash in a car outside of Max Fitness and Joey picks  
10 it up.

11                  After that, Gringo Mike calls Jose Romo again and  
12 says: I want you to start dealing with my defendant in moving  
13 marijuana to Houston.

14                  And then Joey starts talking to the defendant on  
15 the phone. And together they move four loads of marijuana from  
16 South Texas to Houston, Texas. And Joey says each load was  
17 about a thousand kilograms of marijuana. And together the two  
18 coordinate the movement of marijuana from Houston -- excuse me.  
19 From South Texas to Houston.

20                  You also heard from Benicio Lopez. Benicio Lopez  
21 is the one that went to high school with the defendant and his  
22 wife. They know each other. There's no doubt. Benicio Lopez,  
23 also working for the cartel and working for the defendant's  
24 brother, Gringo Mike in Mexico.

25                  At one point Gringo says: I need you to help out



1 my brother.

2 A guy name Mocho, who is the middleman between  
3 Gringo Mike and Lee Roy Villarreal, passes Benicio Lopez the  
4 defendant's phone number. And he says: I want you to bring  
09:52AM 5 500 kilos of marijuana to the defendant. Call the defendant,  
6 and he'll give you the details.

7 So Benicio Lopez does it. He gets 500 kilos of  
8 marijuana from South Texas. He brings it to Houston. He calls  
9 Lee Roy: Where do you want me to take this marijuana?

09:52AM 10 Lee Roy, the defendant says: Take it to a  
11 restaurant, Tu Casa Salad; and I'll have people pick it up.

12 Benicio Lopez tells you: I go to Tu Casa Salad,  
13 I've got the marijuana. Who does he see there? The defendant,  
14 Lee Roy Villarreal. They get the marijuana and it's good to go  
09:52AM 15 and it's later sold.

16 The defendant, when I asked him: Do you know  
17 Mocho?

18 He says: Yeah, I know Mocho. He's an associate  
19 of my brother's, Gringo Mike.

09:53AM 20 Next slide, please.

21 You also heard evidence that after Gringo Mike is  
22 killed in March of 2013, the defendant continues to traffic  
23 drugs. This time he gets into cocaine. You heard from  
24 Juan Saenz-Tamez. He goes by the nickname Panochas or  
25 Panochitas.

1                   He says -- he gets word from guy named Choco that  
2 the defendant is trying to reach him and they trade numbers on  
3 their Blackberry radios.

4                   The defendant reaches out and says: Can you get  
09:53AM 5 me some stuff? "Stuff" meaning cocaine.

6                   Panochas says: Yeah, I can get you some cocaine.

7                   Panochas says he was a little nervous about  
8 trusting the defendant at that time because Gringo had just  
9 died. So he says: I'll give you the cocaine, but there's a  
09:53AM 10 condition. I'm going to need that money up front.

11                  And guess what? The defendant says: No problem.  
12 I'll get you the money up front.

13                  And he sends Panochas a million dollars in cash.  
14 Do you remember Panochas told you it came in duffel bags and it  
09:54AM 15 was all hundred dollar bills stacked up.

16                  You remember he said it smelled weird like it had  
17 been underground, like it was buried. After he gets the  
18 \$2 million, he sends over a hundred kilos of cocaine.

19                  The defendant receives that cocaine, and it gets  
09:54AM 20 distributed. And Panochas says that didn't happen just one  
21 time. That happened two times.

22                  At the same time that this is going on, you hear  
23 from Dionicio Gutierrez. Do you remember Dionicio? He's  
24 friends with Juan Garcia, the guy that just happens to have the  
09:54AM 25 business right next to Rhino Collision where the defendant's

1 business is.

2 Dionicio says Juan tells me that his friend  
3 Lee Roy, who owns Rhino Collision has some cocaine and he wants  
4 us to help him sell it.

09:54AM

5 At this time Dionicio is a tractor-trailer  
6 driver. He helps distribute cocaine with Juan Garcia.

7 Dionicio says he agrees to transport the cocaine  
8 and he goes over with Juan Garcia to the defendant's house  
9 where the defendant personally hands him a bag with 44 kilos of  
10 cocaine.

09:55AM

11 Later that cocaine is concealed inside the  
12 tractor-trailer. Dionicio delivers it up to Indiana where it's  
13 sold. After it's sold, Dionicio gets the drug proceeds and he  
14 bring back \$400,000 of cash.

09:55AM

15 Where does he take that \$400,000 of cash? He  
16 takes it to Rhino Collision, the defendant's business; and he  
17 gives it to a guy that he remembers as Tony. This happens in  
18 2013.

09:55AM

19 Panochas gets the cocaine to the defendant. The  
20 defendant has to sell it. He's not getting his hands dirty.  
21 He uses other people like Dionicio to go and sell it and it  
22 gets sold.

09:55AM

23 Now, Dionicio gets caught by agents up in Chicago  
24 in 2016. And in 2016, before the defendant is charged with  
25 anything, before we're involved at all in the case, Dionicio is

1     telling agents he's asked, hey, tell us anything you know about  
2     anyone involved in drug trafficking.

3                     And Dionicio says: Well, there's a guy name  
4     Lee Roy who works at Rhino Collision; and I gave him 44 kilos  
09:56AM 5     of cocaine.

6                     Agents in Chicago don't know anything about  
7     Rhino Collision. They don't suggest Lee Roy Villarreal. They  
8     don't know anything about it.

9                     Dionicio says: I remember another thing. I  
09:56AM 10     remember there was a guy named Mike that worked there and he  
11     used to work on the cars. And I remember one time I saw him  
12     building a compartment, a secret trap.

13                    Do you remember that testimony? It was a Nissan  
14     Altima, he said and it was a cup holder in the back seat. And  
09:56AM 15     you could pull up the cup holder, and you could conceal money  
16     inside it.

17                    Well, lo and behold, it turns out there is a Mike  
18     that works at Rhino Collision. Dionicio is corroborated.

19                    You heard from Mike. Miguel Castro. He  
09:56AM 20     testified yesterday. He's a two-time convicted felon. He  
21     admits that he works at Rhino. He admits he works on cars. He  
22     told you he knows what clavos are, the traps where you hide  
23     money and drugs.

24                    Now, he told you he heard about that from -- what  
09:56AM 25     did he say -- a TV show. I think he said National Geographic

1 or the History Channel.

2 And you can decide whether or not you believe  
3 that or was he really just trying to protect his friend and his  
4 employer, the defendant.

09:57AM

5 The next slide.

6 You might be asking yourself, well, how can we be  
7 sure that the defendant was involved in drug trafficking  
8 because he already had businesses. Why would he want to take  
9 that risk, right?

09:57AM

10 Well, it's simple. It's money. It's greed. And  
11 it's because he happens to be related to one of the most  
12 powerful cartel bosses in Mexico at the time. That's just free  
13 easy money. When you're the brother of a high-ranking Gulf  
14 Cartel plaza boss, you don't have to get your hands dirty.

09:57AM

15 You can sit back in the distance, let other  
16 people do the dirty work, and collect that easy money. We know  
17 that the defendant likes money because you saw evidence of it.

18 You heard evidence from Agent Officer  
19 Pedro Estrada. When the defendant is 22 years old, they find  
20 \$44,796 in a safe in his apartment. 24 years old, you heard  
21 from Agent Ramon, he's caught with \$11,000.

09:58AM

22 When he's 24 years old, he purchases that house  
23 you see on the screen, that house in McAllen in Las Palmas.  
24 24 years old, he's living in that house. He's able to buy that  
25 house.

09:58AM

1 Later he gets stopped in California in 2016, he's  
2 driving a brand new 2016 Porsche 911. Yeah, he's leasing it,  
3 but how much does that lease cost? It's not cheap. It's a  
4 thousand dollars.

09:58AM 5 He's also living in West Hollywood, right, in a  
6 luxury condo. He's paying \$3,479 a month, not working in  
7 California, but able to make these payments.

8 The Judge told you you can consider this evidence  
9 as evidence of motive. Why would he bother to get involved in  
09:58AM 10 drug trafficking?

11 The next slide, please.

12 This same motive, the motive for quick easy  
13 money, greed is the same motive that leads us to our kidnapping  
14 counts.

09:59AM 15 250 kilograms of cocaine are stolen from the  
16 defendant and his brother and the cartel.

17 Next slide, please.

18 When that happens, Gringo Mike, as you've heard,  
19 sends a team of people to investigate. He sends his guys from  
09:59AM 20 Mexico, the hit men, the sicarios. Two of the men we are never  
21 able to fully identify. You've been hearing them by their  
22 nicknames, Payaso and Chiapas.

23 Another key member is a guy named Fiscal. He  
24 kind of leads the group. He's been murdered as you heard.  
09:59AM 25 They come over with Hector Barrios-Hernandez. He goes by the

1       nickname Tetin.

2                       And together they meet up with the defendant.  
3       What's the first thing they do? They come over to The States  
4       and Gringo tells them: Hey, hook up with my friend  
09:59AM 5       Jesus Gonzales. He's the guy at the bottom of the screen.

6                       Remember Jesus Gonzalez goes way back with  
7       Gringo. He's also from Rio Grande City, where the defendant is  
8       from. They did time together in Texas Department of  
9       Corrections.

10:00AM 10                   Gringo calls Jesus Gonzales and says: Let me  
11       know if you hear about anyone selling cocaine for really cheap.

12                   When people sell cocaine for less than what its  
13       value is, it's a good sign that it's stolen. Because people  
14       who have stolen cocaine, they have to get it off their hands  
10:00AM 15       quickly or else they risk getting killed.

16                   And Jesus Gonzalez says: Yeah, I'll do that for  
17       you.

18                   So Tetin is instructed go meet up with Jesus and  
19       find out if you have any information about people selling  
10:00AM 20       stolen cocaine.

21                   Tetin talks to Jesus and he says: Yeah, there's  
22       a guy named Paco. He's selling really cheap cocaine. If you  
23       want, I can get him to sell you some and get him to my store.

24                   Jesus Gonzales owns the store at the top of the  
10:00AM 25       screen. It's another auto body store.

1                   So Jesus Gonzales sets up Paco. Paco arrives at  
2 the store, and Tetin shows up.

3                   After a while, who else shows up? The defendant.  
4 He shows up with Payaso, Chiapas, and some other men; and  
10:01AM 5 they're there about 20 minutes.

6                   During that 20 minutes, Tetin and Paco go into an  
7 office. The defendant doesn't go into the office. He stays  
8 back. They go into the office, Paco gives the cocaine.

9                   Tetin told you he opens up the wrapping to make  
10:01AM 10 sure it has the mark of the Gulf Cartel. Do you remember that  
11 testimony? They talk about how they'll stamp the bricks so  
12 they can figure out with where the bricks came from.

13                   Lo and behold, it's the Gulf Cartel cocaine.  
14 Tetin said at the side that this cocaine belongs to Gringo. So  
10:01AM 15 guess what, they have to go interrogate Paco.

16                   So from the store, they go to the other house,  
17 the Trosper house. You saw that over and over during this  
18 trial, the interrogation house.

19                   They go from the store. The defendant goes,  
10:01AM 20 Payaso goes, Chiapas goes, Tetin goes. And Paco is taken to  
21 that house. Inside that house, he's interrogated.

22                   Where did you get this stolen cocaine? This is  
23 Gringo Mike's cocaine. Tell us who gave us the cocaine.

24                   The defendant is there. You heard testimony at  
10:02AM 25 one point he goes into the room while the interrogation is



1 going on. Tetin and Fiscal were doing the interrogation; but  
2 at one point, the defendant goes into that room. He's with his  
3 friend Tony, who we can never figure out who that is.

4 The defendant puts a bandanna over his face. He  
10:02AM 5 doesn't want Paco to be able to identify him. And guess what,  
6 they get the answer. Paco says: I'll tell you. I'll tell you  
7 who gave me the cocaine. It was that guy, Arturo Armendariz.

8 They said: Okay. Well, we're going to need to  
9 talk to Arturo Armendariz right now. Tell him we want to buy  
10:02AM 10 some of that cocaine.

11 So Paco sets up Arturo Armendariz. And do you  
12 remember they agreed to buy two more kilos of cocaine.

13 You heard from Arturo Armendariz. He says he  
14 drives to a warehouse location where he gives two kilos of the  
10:02AM 15 cocaine. Now, he's got his kid with him, which saves him for  
16 that moment. He turns over the two kilos. Fiscal is there.  
17 Tetin is there. Payaso is there. Chiapas is there. The  
18 defendant is not there. The defendant doesn't go at this  
19 moment.

10:02AM 20 He's with Tony. We don't know where he is,  
21 right.

22 Tetin goes. He gets the two kilos of cocaine,  
23 and they're trying to get Arturo Armendariz to come back. They  
24 want to get him back to the Trosper house so they can  
10:03AM 25 interrogate him to figure out, well, who sold you this.

1                   Because the whole goal was to get to the bottom  
2 of who actually stole the cocaine. But because  
3 Arturo Armendariz has his son with him, he says: I'm not going  
4 with you. I'll get my money later.

10:03AM

5                   And then they drive away. Hours go by. They  
6 keep pestering Arturo.

7                   We have your money. We want to give you the  
8 money.

10:03AM

9                   So they meet again that same day. Now, this time  
10 it's towards the end of the day. It's still daylight, but  
11 we're talking -- Arturo Armendariz said it's getting to  
12 evening.

10:03AM

13                  This time he's by himself, Mr. Armendariz told  
14 you. The same group is there. The defendant is not there.  
15 And this time they start shooting at him. Chiapas comes out  
16 with an AK-47. They start shooting his car. He's able to  
17 drive away. He gets shot twice. He's lucky the bullets only  
18 grazed him, stomach, leg. He takes off and gets away.

10:04AM

19                  Eventually the people that tried to kill him,  
20 they go back to the Troser house. The defendant is there at  
21 the Troser house. Fiscal and Tetin give him an update: We  
22 shot him. He got away. Sorry.

10:04AM

23                  They all break away for the night. Fiscal and  
24 Tetin tells you he had to go back to Mexico to report to Gringo  
25 that things are going bad. It's not good to have shootings in

1 the United States, and they didn't get the guy.

2 So Tetin goes back to Mexico. He tells  
3 Gringo Mike what happens. And Gringo says: Get back there and  
4 get me the guys that stole my cocaine.

10:04AM

5 So Tetin comes back. We're on another day now,  
6 right? We're at Day 4 or 5 at this point. Tetin comes back.  
7 He meets up with Arturo Armendariz again, and he gets the names  
8 of the two people.

10:04AM

9 I think he said he met him at a Jack in the Box  
10 parking lot. He gave him some money for his bullet wound  
11 injuries. And at this point, Armendariz is scared and says:  
12 I'll give you the guys who sold me that cocaine.

10:05AM

13 And that's where we get the names of our intended  
14 victims: Felipe Guerra and Gerardo Olivarez. Mr. Armendariz  
15 says: These are the guys. They're the ones who sold me the  
16 cocaine.

10:05AM

17 And that's when the plan shifts and they begin to  
18 actually target these two guys for kidnapping and murder.  
19 These are the victims that are listed in Count 2 of the  
20 indictment.

10:05AM

21 So then they start bringing in more people to the  
22 group, more people to the conspiracy. These are the low-level  
23 guys. These are the guys that have been doing crimes since  
24 they were, what, 10, 12 years old. These are the guys that are  
25 actually going to go grab the victim and risk getting caught

1 red-handed.

2 The higher-level guys investigate the crime and  
3 then the lower-level guys take the risk and actually go in  
4 there with guns and physically grab the victim. And you heard  
10:05AM 5 from some of these lower-level guys.

6 The first person you heard from is Roel Garza.  
7 And he's the first witness in this case to implicate the  
8 defendant. He talks to police in 2012. He's not arrested.  
9 He's not in custody. He's not talking to federal agents.

10:06AM 10 They ask him: Were you involved in a kidnapping?

11 And he confesses. They ask him who's involved,  
12 and he names all the players: Fiscal, Tetin, a guy named  
13 Chiapas, a guy named Payaso, other people I don't know. But  
14 Lee Roy Villarreal was there, too.

10:06AM 15 Right out of the box he says:

16 Lee Roy Villarreal. He's not in custody, he doesn't get a  
17 benefit for that. And he tells them the whole story, all the  
18 facts that we've just talked about. How they went around for a  
19 week and a half trying -- they start with Felipe Guerra. They  
10:06AM 20 try to do surveillance. Remember how they told you they were  
21 all in different cars and they would just kind of follow the  
22 victims around trying to learn their routine like when would be  
23 the best time to grab them.

24 They actually make an attempt to pick up Felipe  
10:06AM 25 one time. Each time before they go out and actually try to

1 make the attempt, they meet up at the Trosper house and they  
2 have a little meeting.

3 He said one time Lee Roy, the defendant, was at  
4 one of those meetings. He remembers Lee Roy had a bunch of  
10:06AM 5 phones, a bunch of radios. And Lee Roy was the one that had  
6 the police scanner.

7 So Lee Roy was able to listen to see whether or  
8 not there were police in the area that could catch them while  
9 they were doing this. He tells you, yeah, they go out, they  
10:07AM 10 head out. They try to pick up Felipe, but they're not  
11 successful. They can't get him.

12 They actually go back to the house and the  
13 higher-level guys actually beat them. They paddle them with  
14 the wooden paddles because they didn't do what they were  
10:07AM 15 supposed to do.

16 Then the days go by, they try again. They can't  
17 get Felipe. So then they shift. Roel tells you to the next  
18 target, which is Gerardo Olivarez. He's the cousin of the  
19 actual victim that was taken.

10:07AM 20 And at that point they shift gears. They try a  
21 new plan. Let's pretend like we're police officers. Let's not  
22 mess around with trying to grab him at night. Let's go  
23 straight up, broad daylight, say we're police officers, tell  
24 the victim we have a warrant and grab them.

10:07AM 25 And that's what they do, right? That's what they

1 do. And they just get the wrong guy. They get the wrong guy,  
2 and that guy is murdered.

3 In addition to Roel Garza, who were the other  
4 witnesses that tell you that the defendant personally helped  
10:08AM 5 out to kidnap all of these people? Well, again, Tetin, Hector  
6 Barrios-Hernandez.

7 Not only does Tetin tell you that the defendant  
8 helped investigate who stole the cocaine, he actively  
9 participates in trying to pick up the people he realizes stole  
10:08AM 10 the cocaine.

11 Tetin again tells you during those two weeks he's  
12 helping us, he's at the Troser house. He actually gave Tetin  
13 a vehicle, a blue car that he could use with Texas plates so he  
14 could go around and do surveillance and not stick out.

10:08AM 15 Remember, Tetin tells you he's allowed to cross  
16 into the U.S. and Mexico legally. He has his own car. But it  
17 had Mexico plates. So Lee Roy, who happens to have access to  
18 lots of cars and a rental car company, says: Here. Use this  
19 car. It has Texas plates, then you won't be detected.

10:08AM 20 And Tetin uses that car for two weeks.

21 Tetin says there's one point where they try to  
22 pick up the first victim, Felipe Guerra; and he's actually in  
23 the car with the defendant doing surveillance. He tells you  
24 again the defendant had the police scanner. Very helpful, so  
10:08AM 25 we could hear if there were cops in the area.

1                   If we heard there were cops in the area, they  
2 would reconfigure, call off, and start it again on another day.  
3 Tetin tells you he helped out not once, not twice, but three  
4 times.

10:09AM

5                   Tetin says on the day that they actually picked  
6 up Ovidio Guerrero, which is on May 28th, the Saturday of  
7 Memorial Day weekend, the defendant was there. And he was out  
8 there doing surveillance by himself, and they were in  
9 communication by radio.

10:09AM

10                  You heard from Orlando Hernandez. He  
11 corroborates everything Tetin tells you. He was one of the  
12 low-level guys. He was in charge of being more hands on. He  
13 helps out in trying to pick up Felipe Guerra.

10:09AM

14                  He tells you he remembers the defendant. He was  
15 working for Fiscal in Mexico and he said: Yeah, I know the  
16 defendant. I saw him in Reynosa once. I knew he was Gringo's  
17 brother, but I didn't know his name. I didn't really work with  
18 him because I was too low level. But when I was brought into  
19 this kidnapping plan, I recognized him when I saw him.

10:09AM

20                  He says: I remember he shows up at the Troser  
21 house. The defendant comes with that guy Payaso and Chiapas,  
22 and they kind of hung out by themselves.

10:10AM

23                  And, again, he describes the defendant had a  
24 bunch of radios, a bunch of phones. He's the one that had the  
25 police scanner. And he recalls him having a 9mm handgun in his

1 waistband.

2 Again, same thing. He said the defendant was  
3 there, he was just there for about 20 minutes. We went out, we  
4 tried to pick up Felipe. We weren't successful. We got  
10:10AM 5 paddled afterwards.

6 He said he didn't know what his name was, but  
7 that Fiscal pointed him out and said: Yeah, his name is  
8 Lee Roy. That's Gringo's brother.

9 Next slide, please.

10:10AM 10 So those are eight witnesses who personally know  
11 the defendant, worked with the defendant, and committed the  
12 crimes with the defendant.

13 And evidence in the case like this is going to  
14 come down to the testimony of witnesses. When you're  
10:10AM 15 investigating an historical kidnapping and trying to solve it  
16 years after it occurred, you're going to need to rely on the  
17 people who did the crime, right? That's the only evidence  
18 that's going to be available.

19 And when you're targeting a high level -- someone  
10:11AM 20 who is related to a high-level cartel boss, who is able to  
21 insulate themselves from the scrutiny of law enforcement,  
22 you're going to need witness testimony in order to convict  
23 them.

24 And the law allows for that as the Judge just  
10:11AM 25 told you. We wouldn't be able to prosecute people like the



1 defendant, Lee Roy Villarreal, who is part of a large criminal  
2 organization, unless we could use and rely on the testimony of  
3 people who committed the crime with him.

4 We'd never be able to get to those people. And  
10:11AM 5 as the Judge just said, that's appropriate. The defense would  
6 have you believe you can't believe any of the witnesses because  
7 they're getting a benefit. And that's not evidence you can  
8 use. But that's just not true.

9 The Judge just told you that the use of plea  
10:11AM 10 bargaining and using cooperators and co-defendants in a case is  
11 ordinary and expressly provided for under the law. And it  
12 happens all the time.

13 In fact, the testimony of just one witness who is  
14 a cooperator or co-conspirator is enough for you to find the  
10:12AM 15 defendant guilty beyond a reasonable doubt. Just one.

16 This is not me just saying that. This is what  
17 the law says. On Page 8 of your jury instructions, the law  
18 says if you believe the testimony of just one cooperator you  
19 can find the defendant guilty.

10:12AM 20 In this case we don't just have one witness, we  
21 don't just have two. We have nine witnesses who identify the  
22 defendant and talk to you about what the defendant did.

23 Let's talk about why you can and you should trust  
24 the witnesses that the government brought to you. The  
10:12AM 25 witnesses are credible because they corroborate each other.

1           The witnesses don't know each other, yet they're  
2 all telling you the same thing. And the defense doesn't  
3 dispute that, right? We all agree that everyone was sent over  
4 to investigate 250 kilos of cocaine. We all agree that the  
5 same three people were targeted.

6           We all agree that everyone was involved. We all  
7 agree how it happened. They posed as pseudo cops and they  
8 grabbed him in broad daylight. The only thing the defense  
9 disagrees with was that he was involved.

10           So you can believe everything that the government  
11 witnesses say except when they talk about Lee Roy. They're  
12 honest about everything else except for Lee Roy's involvement.

13           If that's true, if this is just a big conspiracy  
14 to frame the defendant and we're just scripting these witnesses  
15 and telling them what we want them to say, why didn't every  
16 single witness come in here and say: I know Lee Roy and he was  
17 there. He was there every single day. He was there the day  
18 Ovidio was picked up.

19           Because they're not lying to you. They only say  
20 what they saw, and they all saw different things. They had  
21 different roles.

22           Example one, Gerardo Villarreal. That's the guy  
23 that actually grabbed Ovidio. He's the one that dressed up  
24 like the cop that had the badge and the vest.

25           What did he tell you? He said: I never saw the

1 defendant.

2 He didn't. He was brought in on the very last  
3 day on May 28. He didn't go inside the Troser house. As soon  
4 as he arrived, he already had his cop gear on. They threw him  
10:14AM 5 in the truck and said: Go get that guy.

6 Example Number 2. Jesus Lorenzo Davila. He  
7 helped out on one of the prior attempts when they tried to get  
8 Felipe, and it wasn't successful. And he said: There were a  
9 lot of people there I didn't know. I was brought in last  
10:14AM 10 minute. I don't think the defendant was there, but there were  
11 some guys with masks on.

12 Again, if all the government witnesses are lying,  
13 why aren't their stories matching up perfectly; and why don't  
14 they just say, yeah, the defendant was there?

10:14AM 15 Another reason you can trust and believe the  
16 government's witnesses, because not only do they corroborate  
17 each other and they don't even know each other, they're  
18 corroborated by the defendant's own words.

19 One of the best pieces of evidence in this case  
10:14AM 20 is the defendant's recorded statement that you heard. It's 58  
21 minutes where the defendant is basically confessing about his  
22 involvement in drug trafficking.

23 I want to talk to you about the circumstances of  
24 this tape. Benicio Lopez, who the defendant went to high  
10:15AM 25 school with, who the defendant testified to you that after high

1 school he had no involvement with him whatsoever, do you  
2 remember that testimony? Testimony of his wife, too, and  
3 another one of his friends.

4 Benicio Lopez was a bad guy. We had nothing to  
10:15AM 5 do with him. Even in high school; and after high school, we  
6 never dealt with him, right? Yet, this was in 2003, 2004.  
7 This recording is made in 2014.

8 So 11 years later, the defendant would have you  
9 believe that he's able to just pick up the phone, call  
10:15AM 10 Benicio Lopez, who at this time is Comandante Veneno, a  
11 high-ranking plaza boss himself, and say: Hey, can you get me  
12 a meeting with Tonio, who happens to be a former Mexican  
13 military officer who decided to work with the Gulf Cartel. I'd  
14 like to talk to him.

10:15AM 15 Both Comandante Veneno and Tonio are high-level  
16 cartel people; and we're to believe that the defendant, who  
17 just knows this guy from high school 11 years ago, can just  
18 pick up the phone and get that meeting done. Does that  
19 testimony impress you as truthful? Does that ring true to you?

10:16AM 20 That's not what happened. The defendant was able  
21 to call Benicio Lopez because they had been working together in  
22 drug trafficking, because he had delivered 500 kilos of  
23 marijuana for him before and he had been working with his  
24 brother for years, just as Benicio Lopez told you.

10:16AM 25 So Benicio is able to connect the defendant with

1 Tonio. They have three meetings together. Two times they're  
2 not recorded. The last time it's recorded.

3 Now, the recording is 58 minutes; and it's in  
4 Spanish. You're not going to have a CD back in the jury room  
10:16AM 5 with you, and you will not have the transcript.

6 There were a lot of admissions the defendant  
7 makes during those 58 minutes. I'm going to pick three  
8 examples just to go over with you briefly.

9 If at any time you want to listen to the  
10:16AM 10 recording again, you can send a note out and we can come back  
11 into the courtroom and we can play that for you. Here are the  
12 top three examples I think really illustrate the defendant's  
13 guilt the best.

14 Number 1. You know, kind of halfway through the  
10:17AM 15 recording, their meeting, this is the defendant talking and  
16 he's telling -- he makes Tonio this proposal: Hey, Tonio, I  
17 was going to ask you. Look. I can cross with my friend. My  
18 brother over here can get it.

19 Now, we're talking about drugs, right? Remember  
10:17AM 20 Tonio and all the witnesses tell you they don't say "cocaine"  
21 or "marijuana" on recordings. They all talk in code, right?

22 I can get it over here. My brother over here can  
23 get it. You bring it to the ranches, and I can f'ing get it.  
24 I'll cross it. Meaning cross the drugs from Mexico into the  
10:17AM 25 United States.

1                   If there is a way we can make an agreement with  
2 the soldiers so they themselves can transport for us the stuff  
3 and give it to my friend, then he can cross it here.

4                   Tonio told you: Hey, what Lee Roy is saying, if  
10:17AM 5 you could help me out with the Mexican military -- because  
6 remember Tonio is ex-military, he still has those contacts --  
7 if you can help the military clear the road so we can get that  
8 across and not have to pay that tax, once we get it through  
9 that area, then I can cross it over and we can make some money.

10                   Next slide.

11                   He continues on: I can get it to Reynosa. I  
12 have a way to bring it to Reynosa, boom, without paying. The  
13 guy that's bringing the stuff, he's a guy that sided with the  
14 Templarios, but he's here and I get along fine with him. He's  
10:18AM 15 a good friend of my brother.

16                   Okay. Here the defendant is again saying, I have  
17 a connection with a source of supply. Templarios, you heard  
18 testimony, was another major cartel operating in south Mexico.  
19 Tetin talked to you about it. Gringo sent him to go meet with  
10:18AM 20 the head of the cartel.

21                   Here the defendant is telling Tonio, hey, I have  
22 a connection. My brother is friends with him and I have that  
23 connection. He can get us the money and if you can get it  
24 here, we can get it across without paying.

10:18AM 25                   The only thing -- next slide.

1           The only thing the defendant is concerned about  
2           is this guy named Quince. He's like, look, this is going to  
3           work. My friends from here, I told them, these guys are going  
4           to work with me over anyone because we're the same ones. You  
10:19AM 5           understand? The only thing is that Quince isn't going to  
6           agree.

7           The defendant is worried about Quince. Quince  
8           was the one who worked for Gringo, but then became affiliated  
9           with the rivals who killed Gringo. And he was in charge of the  
10:19AM 10          area in Mexico and the U.S. that the defendant wants to use to  
11          cross the dope.

12          The defendant knows he can't get around Quince  
13          without getting into trouble. He needs the help of the  
14          military. The defendant doesn't want to pay the tax to Quince.  
10:19AM 15          He's trying to save money. So he's trying to figure out a  
16          scheme to work the dope scheme around Quince's back.

17          Again, these are details that no one would know  
18          unless you're involved in the drug trafficking game yourself.  
19          Let's look at example Number 2.

10:19AM 20          The defendant tells Tonio hey -- he brings up  
21          Panochas. They screw Panochas, so things are over for them and  
22          I'm over here trying to get his number.

23          He's telling Tonio: I'm trying to get ahold of  
24          Panochas.

10:20AM 25          Panochas basically took over the area where the

1 defendant's brother used to control. Panochas is the guy that  
2 can get the defendant cocaine.

3 I told him: I want to talk to that guy so he can  
4 send me the stuff.

10:20AM

5 And we know that happened. Panochas told you,  
6 yeah, after Gringo was killed, I get a communication from the  
7 defendant. We talk about his brother Gringo. He asked me can  
8 you get me some cocaine.

10:20AM

9 Panochas says, yeah, I'll get you the cocaine. I  
10 just need the money up front.

11 He gets the money up front, and he actually gets  
12 him cocaine.

13 Panochas told you: I remember the money smelled  
14 buried.

10:20AM

15 Buried because it's been dug underground in those  
16 holes. And you hear the defendant talking about where his  
17 brother stashed money in houses that had underground holes. He  
18 talks about that a lot in tape. He says each hole can hold  
19 \$5 million.

10:20AM

20 Example Number 3. Then the defendant talks about  
21 Payaso. Payaso is a hit man, who came over and helped out on  
22 these kidnappings. The defendant is telling Tonio: I know  
23 Payaso. I got him out. I gave him money to take off. I know  
24 he wasn't busted.

10:21AM

25 Remember the defendant doesn't know that Tonio is



1 working as a source, and Tonio is wearing a wire. That's how  
2 we're able to have this evidence, because Tonio actually told  
3 his handling agents he was meeting with the defendant. They  
4 did surveillance. They saw everyone arrive, and they wired him  
5 up. And that's why we have his evidence.

10:21AM

6 The defendant knows that this is overwhelming  
7 evidence of his guilt so he has to try to convince you to not  
8 consider it. He has to find a way around it. So what is his  
9 defense?

10:21AM

10 "I was just playing a part."

11 Next slide, please.

12 "I'm just an actor. I was just playing a role.  
13 Agent Chris Lee with the FBI told me to plant some seeds so  
14 that's what I was doing."

10:21AM

15 Well, here are four reasons why you should not  
16 believe that story whatsoever.

17 Number 1, the time. All the parties agree it's  
18 been stipulated that this recording happened in August of 2014,  
19 right? When was the defendant terminated as a source from the  
20 FBI? December 2013.

10:22AM

21 The time this recording is made, the defendant is  
22 in no contact with FBI at all. Right? The FBI doesn't know  
23 he's having this meeting. The defendant didn't tell them.

24 The second reason why you can believe that the  
25 defendant is not just playing a part, throughout this 58

10:22AM

1 minutes the defendant uses the collective "we." He's telling  
2 Tonio: We have the best schools. We have the best roads. We  
3 fought the Zetas.

4 It's not someone who's talking about something he  
10:22AM 5 heard from another person. He injects himself into what  
6 actually has occurred because he was involved in what had  
7 occurred.

8 What about his tone? I don't speak Spanish  
9 either. You don't need to speak Spanish to understand and  
10:22AM 10 appreciate someone's tone on a recording, right? He sounds  
11 very authoritative during that recording. He sounds confident.  
12 He sounds like someone who knows what he's talking about. If  
13 he's just playing a part, well, then, let's give the guy an  
14 Academy Award.

10:23AM 15 Number 3. Think of the substance of the  
16 recording. The FBI has instructed the defendant back when they  
17 were working with him months prior, bring us information about  
18 illegal activity happening in the United States so we can make  
19 a case and arrest people.

10:23AM 20 That's what their goal is, and that's what the  
21 defendant was told to do. If that's what he claims he's trying  
22 to do, he was just following instructions, trying to plant a  
23 seed, why is he not asking Tonio about any illegal activity?

24 Why isn't he asking Tonio who is moving drugs  
10:23AM 25 now? Who are the crossers? Where are they crossing? Why

1 isn't he trying to get one piece of information that the agents  
2 could use to make a case?

3           Instead he's talking to Tonio about what? My  
4 brother had the money. Here are the coordinates. Here is  
10:24AM 5 where you can find it. Here are where the weapons are. He  
6 wants to use Tonio to help himself to get the drug money.

7           As far as drugs and drug trafficking, what does  
8 he tell him? He's not asking him for information. He's  
9 telling Tonio: I'm the source of supply. I have the  
10:24AM 10 connections. I have the crossers. Here is a new plan. Here's  
11 a new proposal. Here's a way that we can make money.

12           The tape speaks for itself.

13           Let's talk about the defendant's half-truths to  
14 the FBI. Yes, we all agree the defendant did work with the  
10:24AM 15 FBI, right, for about nine months. They were talking for about  
16 six months. And during those six months, what does the  
17 defendant tell FBI?

18           He talks to the FBI about the people on the left  
19 side of the screen and then he says nothing whatsoever about  
10:24AM 20 the people on the right side of the screen. Let's start with  
21 the left side of the screen. Yes.

22           He mentions he knows Benicio Lopez, but he leaves  
23 out he gets 500 kilograms of marijuana from Benicio.

24           He says, yes, I know a guy names Panochas. Never  
10:25AM 25 tells him, hey, I got 300 kilos of cocaine from him and I can

1 get ahold of him right now if you're interested. Doesn't tell  
2 him about how they crossed it and all those deals.

3 He mentioned a guy named Tetin. He never tells  
4 them, yeah, I gave -- I arranged for Tetin to get a million  
10:25AM 5 dollars as a down payment for 200 kilos of cocaine that came  
6 from Panama. Never tells the FBI anything about that.

7 He mentions a guy named Mocho, but he leaves out  
8 that he's working on a plan to work around Mocho with the help  
9 of the Mexican military using Tony's connection.

10:25AM 10 As I said, he completely leaves out knowing  
11 anything about a Fiscal, Payaso -- those are the men involved  
12 in the kidnapping -- because the defendant doesn't want to say  
13 anything about the kidnapping to the FBI.

14 At trial, the defendant admitted to me that he  
10:25AM 15 did know Payaso. He met him in Mexico. And he actually told  
16 us his true name. Felipe Banda. The first time FBI has ever  
17 heard that true name. Would have been nice for the FBI to have  
18 that information back in 2013, but the defendant never  
19 mentioned it.

10:26AM 20 The defendant never mentioned Juan Garcia or  
21 Dionicio Gutierrez. These are the two guys who were actually  
22 working and operating doing drug business in Rio Grande City in  
23 the United States where the FBI had jurisdiction, where the FBI  
24 actually could have made a case, they could have used the  
10:26AM 25 defendant, sent him in with a wire and maybe done something.

1 But the defendant doesn't say a word about it  
2 because he wanted to use them for himself and make money and  
3 that's what happened.

10:26AM

4 So you can decide whether you want to believe the  
5 defendant -- the testimony of the defendant over the testimony  
6 of Agent Moody, Agent Husak, and Agent Lee.

10:26AM

7 When you're deciding whether or not to believe  
8 the testimony of the defendant over the testimony of the FBI  
9 agents, I'd like you to think back to the testimony of the  
10 defendant and some of the things he told you.

10:27AM

11 Some of the things he said -- there were a lot of  
12 things he said that just didn't ring true to me, and I picked  
13 three examples. And you think about these as you decide  
14 whether or not you want to give his testimony any weight at  
15 all.

16 Number 1, I asked him, hey, you had \$45,000 in  
17 cash, you're only 22 years old. Why isn't it in a bank?

18 I didn't really know much about banks. I didn't  
19 know how to open a bank account.

10:27AM

20 Think back to your life experiences. When you  
21 were 22, did you know what a bank account was?

22 Number 2, he tells us, I was in Cancun -- I was  
23 in Reynosa when my brother is viciously murdered and I decide  
24 to stay in Cancun to cope and do some clubbing for six days.

10:27AM

25 And then I go to Mexico City because I'm trying

1 to help my brother's widow. Her name is Fabiola. That's the  
2 wife of Gringo that lived in Mexico. I was trying to get her  
3 out of the country safely.

4 So I put my life and my family's life behind  
10:27AM 5 hers, and I put Fabiola first. And I take her to Mexico City  
6 and then we end up in Juarez and I'm just trying to help her.

7 There are two reasons why the defendant stayed in  
8 Mexico. One is money. He went to Mexico City because he was  
9 trying to get his hands on money of Gringo Mike's. Gringo Mike  
10:28AM 10 had \$13 million hidden in Mexico City, and that's why the  
11 defendant went to Mexico City.

12 The second reason the defendant stayed in Mexico  
13 and stayed with Fabiola is he was worried that she was going to  
14 talk to the FBI about him and his brother.

10:28AM 15 What's the third thing that the defendant said as  
16 soon as he said it, it just doesn't ring true. It rings false.  
17 You're common sense tells you that. He says about California.

18 The agents told you in May of 2015, the defendant  
19 is a suspect in the kidnapping. And they approach the  
10:28AM 20 defendant and say: Listen, we have evidence you're involved  
21 and you're about to get arrested. Anything you want to tell  
22 us?

23 Remember, he says nothing. He doesn't say, what  
24 are you talking about? What kidnapping? I have no idea. He  
10:28AM 25 says nothing. And this is at the end of May.

1                   And you can confirm this with the defendant's own  
2 exhibits, Exhibit 30, all the text messages. Late May  
3 of 2020 -- 2015, the defendant is talking to FBI; and he's  
4 still in Rio Grande City, Texas.

10:29AM 5                   Then the defendant, guess what, takes off and  
6 moves to California. What did he say? Oh, we go every summer.  
7 It's an annual vacation. This time we went, after a few months  
8 we decided, hey, let's just stay. That's not true. You know  
9 how it's not true? Because we have a lease agreement, and it  
10:29AM 10 will be back there for the jury room.

11                   June 3rd, he signed a lease agreement for a year  
12 before he even went to California. He signed it in advance.  
13 Another example of the defendant just telling you something  
14 that's not true. If he's willing to say something true about  
10:29AM 15 that, how can you trust anything he says?

16                   Another major reason why you can't trust the  
17 testimony of the defendant is because during the trial he  
18 admitted to you that he has been untruthful to other people in  
19 the past, including federal agents.

10:29AM 20                   Do you remember the testimony of Agent Ramon?  
21 He's going through the port of entry in a vehicle. He's got  
22 \$11,000. Remember the agent questions the defendant, how much  
23 money do you have? You have to report it. The law requires  
24 you have to report it.

10:30AM 25                   The defendant was not truthful and said: I only

1 have \$3,000. The defendant admitted that he lied to Agent  
2 Ramon.

3 And then Agent Ramon says that the defendant  
4 confessed to him and said he knew he had 11,000; all the money  
10:30AM 5 was his; and the defendant split it up deliberately between the  
6 other two passengers in the car, his wife and her cousin,  
7 Ms. Alaniz. On the stand the defendant said: I never said  
8 that. Agent Ramon is lying.

9 Another time the defendant admitted that he lied.  
10:30AM 10 There was a video made and the defendant is on a recording  
11 saying that he barely knew his brother after the brother went  
12 to Mexico. The defendant admitted: I lied. That wasn't true.

13 Then the defendant testified to explain why he  
14 lied about that. He said: Well, I lie when I'm scared.

10:31AM 15 Well, obviously he's at trial facing very serious  
16 charges. There will be consequences.

17 You don't worry about that; that's for the Judge.  
18 But obviously he's scared right now. He lies when he's scared.  
19 How can you trust anything he says to you?

10:31AM 20 The defense would have you believe the defendant  
21 is a hard-working family man, and those things may be true.  
22 But you know what else the defendant is? He's a con man. He  
23 tried to con the FBI. He conned his friends and family. Most  
24 of the people that came in here to testify for him, they don't  
10:31AM 25 know what he does. He's not telling them he's involved in drug



1 trafficking. People involved in the Gulf Cartel dirty business  
2 don't tell their loved ones about it. They only tell people  
3 who are also involved.

4 So not only does he con the FBI, he cons his  
10:31AM 5 friends and family. He's trying to con you. He's trying to  
6 convince you that he's playing a part when he confesses to  
7 being involved in drug trafficking.

8 But the biggest con of all is his attempts to  
9 convince you that he was in Austin, Texas, the weekend of  
10:32AM 10 Memorial Day 11 years ago.

11 Next slide.

12 The defendant, to support his claim that he was  
13 in Austin, he points to speeding tickets. It's undisputed the  
14 defendant got two speeding tickets on May 26th, right? Hard  
10:32AM 15 evidence.

16 The problem with the hard evidence is they don't  
17 show what direction he was going, right? He could have been  
18 going north, coming back to South Texas. They don't show the  
19 time he received the tickets, and they don't show who is in the  
10:32AM 20 vehicle with him.

21 You have to rely on witness testimony to get any  
22 value of those tickets. The only thing that the tickets show  
23 you is that for a couple of hours on May 26th before the  
24 kidnapping of Ovidio, he was away, outside of town for a few  
10:32AM 25 hours. That's the only thing those tickets show you.

1 I think I've covered enough about all the reasons  
2 why you can't trust anything the defendant tells you. So let's  
3 talk about the only other two witnesses who can help him  
4 explain that he was Austin on Memorial Day weekend.

10:33AM

5 Who is the first witness? His wife,  
6 Shanta Salinas. Let's talk about the credibility of  
7 Shanta Salinas. Her convenient memory -- 11 years after the  
8 fact, she has amazing, miraculous memory about where she was on  
9 Memorial Day weekend to the point where she can tell you  
10 definitively the day of the three-day weekend she was a boat.  
11 Does that ring true to you? 11 years ago, do you remember if  
12 you were on a boat on a Friday or Saturday?

10:33AM

13 Maybe you remember taking a trip. Memorial Day  
14 weekend is not like Christmas or Easter. But let's say you  
15 remember Memorial Day. But you're going to remember I know for  
16 sure it was Sunday versus a Monday? I mean, it didn't ring  
17 true.

10:33AM

18 The same with the other witnesses. Ms. Vega, the  
19 person they were staying with, and the defendant himself, they  
20 were a hundred percent sure that they went on the boat on the  
21 Monday, Memorial Day day, the holiday.

10:33AM

22 And Ms. Salinas says: No, no. It was Saturday.  
23 Saturday.

24 How any of them can have a specific recollection  
25 as to the exact date they're on the boat just defies common

10:34AM

1 sense. Why is Ms. Salinas -- why would she lie? Well, that's  
2 obvious. Your common sense tells you why. She's biased. She  
3 loves her husband, the father of her children. And she's going  
4 to say anything she has to to help him, right?

10:34AM 5 There's two examples we saw of that during her  
6 testimony.

7 Number 1, she testified to you that Ms. Vega  
8 lived in Austin, right? But she knows there's evidence that  
9 you have heard that Ms. Vega might have been living in  
10:34AM 10 Edinburg.

11 So she worked really hard to let you know that  
12 Ms. Vega was also moving back and forth. Do you remember that?  
13 I asked her: Had you ever been to Austin before Memorial Day?

14 And she said: Ms. Vega moved back and forth a  
10:34AM 15 lot. She felt the need for you to hear that. And it wasn't  
16 responsive to what I asked.

17 Why did she want you to know that so bad?  
18 Because she knows there's evidence in the case that Ms. Vega  
19 was living in Edinburg, and she's trying to explain it away to  
10:35AM 20 help the defendant. She thinks that will help the defendant,  
21 right?

22 Another example of that. She worked really hard  
23 to talk to you about May 18th. That's the day she gets the  
24 ultrasound, right? No dispute she got the ultrasound. We have  
10:35AM 25 the record, right? That took about an hour, okay?

1                   She knows there's evidence in the case that on  
2                   May 18th, that's the day Tetin remembers that he came over to  
3                   begin the investigation. That's when they met Paco. That's  
4                   when they met Armendariz.

10:35AM

5                   And throughout that day, they're doing a lot of  
6                   activity, right? And throughout that day, Tetin says that the  
7                   defendant was there. And Jesus Fernando says the defendant was  
8                   there. That's pretty damaging, right?

10:35AM

9                   So the defense is working really hard to have you  
10                  not believe those witnesses. And that's why we have the  
11                  testimony of Ms. Salinas, that she magically remembers 11 years  
12                  later, you know what? My husband was with me basically the  
13                  entire day. She's got him glued to her that entire day. She  
14                  magically remembers that before the ultrasound she had a prior  
15                  doctor's appointment. And she specifically remembers she was  
16                  there for at least three hours because she's kept waiting  
17                  there.

10:36AM

18                  Okay. How do you remember that? How do you  
19                  remember an appointment from 11 years ago? She goes, I  
20                  remember because I looked at the records. Oh, records. Where  
21                  are the records? No one told me to bring them.

10:36AM

22                  Come on. No one told you to bring them? You  
23                  brought the ultrasound record.

10:36AM

24                  And then she says, yeah, so we were there all day  
25                  and then we go to the ultrasound and then we went to go eat.

1 So she's trying to build this timeline. But we understand why;  
2 because she loves her husband.

3 Two other things that she said that didn't ring  
4 true that you can use when you're trying to decide whether you  
10:36AM 5 want to believe anything she says, right?

6 One thing I remember, it had to do with that  
7 house. Remember the house in McAllen. She said she lived  
8 there for about three months; and she wasn't living there in  
9 2011, the day of the ultrasound, the year of the kidnapping.

10:37AM 10 I show her her IRS tax income report from 2010,  
11 which is filed in 2011. She reports to the IRS she was living  
12 at that house. And she said, well, I wasn't living at the  
13 house.

14 So she reports information to the IRS that's not  
10:37AM 15 true. It doesn't matter. It just illustrates this is someone  
16 who is willing to not be truthful, right?

17 You heard testimony from Daniel Garcia, their  
18 attorney, who ends up being that house, right, but never living  
19 there. Daniel Garcia says, they asked me to put this in  
10:37AM 20 property in my name so I did it. But they continue to pay for  
21 it, and they continue to live there.

22 Another example with Ms. Salinas. And this goes  
23 back to the California thing. She again tells you, we just  
24 decided to move to California because we wanted a change of  
10:37AM 25 pace. So let's go move to West Hollywood.

1                   This is someone who is born and raised in  
2                   Rio Grande City. She's Texan, her whole family is in Texas.  
3                   She has young children in school in Texas. She just completed  
4                   her nurse practitioner degree. She gets that. She has a great  
5                   job. They have good businesses.

10:38AM

6                   And we're to believe that they just decided to up  
7                   and move to West Hollywood out of the blue? Uproot their  
8                   entire family and leave everyone they know? Come on.

9                   We know that's not true because we have hard  
10                  evidence she signed that lease. She signed the lease too,  
11                  June 3rd. They didn't just decide to stay after they were  
12                  there. They had planned to move. They planned to move because  
13                  the FBI was about to come and arrest them.

10:38AM

14                  Let's talk about the credibility of Joanna Vega.  
15                  This is a woman who they claim they were staying with, right,  
16                  in Austin that Memorial Day weekend. She testified, I was  
17                  living in Austin. Ms. Salinas says she was living in Austin,  
18                  had a house in Austin.

10:38AM

19                  I asked her, okay. What was your address in  
20                  Austin? She didn't know. What address did she know? Her  
21                  mother's address in Edinburg, Texas. 313 Ric Mar road.

10:38AM

22                  She knew that right off the bat. This is the  
23                  same address on her application to the State of Texas in her  
24                  food stamp application, right? The same address on her  
25                  driver's license. The same address she told Ms. Judy Valdez

10:39AM

1 she was living at when she was interviewed in May of 2025 --  
2 excuse me -- 2011.

3 The same address that she certifies under penalty  
4 of perjury that this information is true and accurate, right?  
10:39AM 5 She fills out this application a week before the kidnapping.

6 On May 25th, the day before they get the speeding  
7 tickets, she's in Edinburg, Texas, talking to Judy Valdez  
8 saying, I live in Edinburg, Texas; and I certify under penalty  
9 of perjury this is true.

10:39AM 10 So either she lied and committed perjury back in  
11 May of 2011, or she took this oath and lied to you last week.  
12 Either way, she's a proven liar; and you really can't believe a  
13 word she says.

14 What's the truth? What does your common sense  
10:39AM 15 tell you? Ms. Vega was not living in Austin. She was living  
16 in Edinburg. The defendant and his wife were not visiting with  
17 her. They were not truthful with you when they told you that.

18 Ms. Vega lied because she is trying to help out  
19 her friend. And they lied because they don't want you to  
10:40AM 20 believe any of the government witnesses.

21 Next slide.

22 The irony to all of this, this whole effort to  
23 convince you they were out of town, the irony is it doesn't  
24 matter under the law, right?

10:40AM 25 The defendant is charged with a conspiracy. A

1 conspiracy is an agreement. You can be anywhere when you agree  
2 to help someone commit a crime.

3 If you knowingly understand the agreement and you  
4 willfully do something to help that agreement become  
10:40AM 5 successful, you're guilty of conspiracy. You could be in  
6 Mexico. You could be on planet Mars.

7 If you say, yes, I want to help you with a  
8 kidnapping and I'll listen to police scanners from my apartment  
9 in Mexico, you're guilty. You don't have to be in Texas when  
10:40AM 10 they're doing the crime. You're guilty of conspiracy.

11 He was guilty of conspiracy the day he began to  
12 investigate the people that stole the cocaine. It doesn't  
13 matter if he's in Austin. That's the irony of all of it.

14 Once you decide that the defendant was involved  
10:40AM 15 and agreed to become a member of this conspiracy, your job, I  
16 suggest to you, becomes a lot easier. You just have to go  
17 through and make sure that we, the government, have proven all  
18 of the elements.

19 So these are the elements on the screen for  
10:41AM 20 Count 2. And the elements are not going to be challenging for  
21 you because both sides agree that all the elements are met  
22 here. Again, the only issue is was he part of it.

23 But we know that there was an agreement between  
24 these people to kidnap Felipe and Gerardo. There is no doubt.  
10:41AM 25 No doubt whatsoever. These people try to pick up both these



1 guys, right?

2 We knew there's no doubt that one of the  
3 conspirators, during the course of the conspiracy, committed  
4 one overt act. So the law requires that you find that at least  
10:41AM 5 one person committed what we call is an overt act.

6 And the Judge is reading these to you and they're  
7 going to be on Page 20 to 22 of your pattern charge. And  
8 there's a list of 37 of them.

9 So two things to remember about the overt acts.

10:41AM 10 You just have to decide that one was committed. You don't have  
11 to agree on which one. The defendant himself doesn't have to  
12 have committed it. Any person committed one of those acts,  
13 that element is met, okay?

14 You're going to find as you go through them that  
10:42AM 15 most of them have already been proven. But just so you know,  
16 you don't need to agree on which one and it just has to be one  
17 and it doesn't have to be the defendant.

18 Now let's see Count 3. Count 3 is the actual  
19 kidnapping of Ovidio.

10:42AM 20 Next slide.

21 The important thing to remember about this slide  
22 is that the defendant is guilty of Count 3 because he aided and  
23 abetted, okay? We're charging him as an aider and abetter. As  
24 the Judge told you, someone can be guilty of a crime even  
10:42AM 25 though they don't personally commit every single act.

1           If you agree to help someone else commit a crime  
2 and that other person actually does the crime, you're guilty  
3 under the eyes of the law, okay? So that's the theory here.

4           We don't have to prove that the defendant did  
10:42AM 5 every act. We don't have to prove that he actually grabbed  
6 Ovidio, right? We just have to prove that at some point he  
7 helped the group of men who actually accomplished that.

8           And aiding and abetting doesn't have to start the  
9 day of the actual kidnapping. So we don't have to prove that  
10:43AM 10 on May 28th, the day that Ovidio was actually taken, he  
11 actually did something, right?

12           At any point in time during the course, this was  
13 an ongoing crime. At any point in time the defendant agrees to  
14 help, he is aiding and abetting.

10:43AM 15           If you find he did that and if you find that  
16 someone actually kidnapped Ovidio and, again, there's no doubt  
17 Ovidio was kidnapped.

18           Just so we're clear, the elements of kidnapping  
19 someone, you know, unlawfully seized Ovidio. No doubt that  
10:43AM 20 happened.

21           That he was held for some purpose or benefit. He  
22 was held to be interrogated and taken to Gringo Mike to get to  
23 the bottom of the stolen cocaine.

24           That he was transported without his consent. He  
10:43AM 25 was transferred. He was bound, he was gagged, he was at

1 gunpoint. He didn't give consent obviously.

2 And he was transported across what they call  
3 interstate or foreign commerce. And here that just means the  
4 international border; he was taken from Texas to Mexico. So  
10:44AM 5 all of those elements are easily met.

6 The last count is Count 1. That's the drug  
7 conspiracy count. Again, conspiracy is just an agreement. We  
8 don't need actual seizures of cocaine or marijuana. It's just  
9 an agreement to try to do that.

10:44AM 10 In this case you heard evidence that the  
11 defendant agreed with other people to move both types of drugs,  
12 marijuana and cocaine. There's a special question. You have  
13 to find that the conspiracy involved more than 1,000 kilograms  
14 of marijuana.

10:44AM 15 Again, that element is really not in dispute.  
16 There's no doubt they're moving thousands and thousands of  
17 kilos of marijuana.

18 Jose Romo told you he personally moved  
19 4,000 kilos with the defendant.

10:44AM 20 And with the cocaine, you have to find more than  
21 5 kilograms. Panochas said he gave him 100 kilos just on  
22 that -- 200 kilos just that first deal. And then, you know,  
23 Dionicio said he gave him 44 kilos in person at the  
24 Rhino Collision that one time.

10:44AM 25 Another thing about the conspiracy, not everyone

1 in a conspiracy has to know each other, right? Some people  
2 dealt on the marijuana side, some people dealt on the cocaine  
3 side. Sometimes people go in and out of a conspiracy.

4 After Gringo Mike dies, they still continue to  
10:45AM 5 traffic drugs. The conspiracy still continues. It's not a new  
6 conspiracy. Panochas just takes over for Gringo.

7 So don't get worried about, well, how do we know  
8 they're all in the same conspiracy? It's all one conspiracy.  
9 The dope is coming from Mexico, it gets crossed and then  
10:45AM 10 distributed.

11 Next slide.

12 At the end of the day, the testimony of all the  
13 government's witnesses have proven to you beyond a reasonable  
14 doubt all of the elements of all the crimes.

10:45AM 15 It's been 11 years now, 11 years since  
16 Ovidio Guerrero was taken from his family. That's a long time.  
17 The co-conspirators and the people that took him, who played a  
18 role in his kidnapping, have taken responsibility for their  
19 role. They've done their time, or they're doing their time.

10:45AM 20 And the time now has come for the defendant to be  
21 accountable for his role in the part he played. And each of  
22 you can see to it that he is accountable by finding him guilty  
23 of each and every count.

24 Thank you.

10:46AM 25 THE COURT: Thank you, Ms. MacDonald.

1 Ladies and gentlemen, why don't we take a  
2 10-minute stretch break and come back and hear from the  
3 defense.

4 COURTROOM SECURITY OFFICER: All rise for the jury.

5 (The jury exited the courtroom.)

6 THE COURT: Ms. MacDonald, you have 32 minutes.

7 MS. MACDONALD: Oh, I do?

8 MR. ALANIZ: Yes.

9 (Court is in recess.)

10 THE COURTROOM SECURITY OFFICER: All rise for the jury.

11 (The jury entered the courtroom.)

12 THE COURT: All right, ladies and gentlemen. Be  
13 seated. I'm sorry that took so long, but apparently we had an  
14 IT problem, which hopefully has been resolved by now.

15 Ms. Cogliano.

16 MS. COGLIANO: Thank you, Judge.

17 During yesterday's testimony, I heard one thing  
18 that really shocked me. And it actually didn't come from one  
19 of our witnesses. It was a question that was asked of  
20 Ms. Salinas which was: What proof do you have that  
21 Lee Roy Villarreal was at that doctor appointment other than  
22 your testimony?

23 And this shocked me for a few reasons other than  
24 the fact that fathers are not usually photographed in the  
25 ultrasound. It's because, one, it's not our burden of proof;

1 and Ms. MacDonald knows that. It's the government's burden of  
2 proof. We do not have to bring any proof, any witnesses at  
3 all.

4 But it also shocked me because I know what the  
11:08AM 5 case that was brought to you against Lee Roy consisted of,  
6 which was testimony. I wanted to stand up and say what proof  
7 do you have that Lee Roy did anything other than the testimony  
8 of mass murderers?

9 We had witnesses come in here and brag to you  
11:09AM 10 that I was wrong when I said they only killed 40 to 50 people.  
11 He killed 150 people, ma'am. That's the amount of people that  
12 I killed.

13 We heard from Comandante Veneno who came in and  
14 said: I was down to kill anybody. I murdered a lot of people,  
11:09AM 15 and I've never been charged or convicted of it. I was charged,  
16 excuse me, in high school; but I've never had a conviction for  
17 murder.

18 But we did bring you Lee Roy's story. Why? Not  
19 because we have to prove history true. That's twisting the  
11:10AM 20 burden of proof here. We can't. That's why we don't have to.  
21 We cannot. We are not trying to put anybody in prison. We are  
22 not trying to take away anybody's freedom. We told you  
23 Lee Roy's story. He told you why.

24 He took that stand so that he could finally tell  
11:10AM 25 his life truth. Nobody has listened to him. The FBI didn't

1 listen to him. His prior lawyers didn't listen to him when  
2 they told him to minimize his relationship with the brother  
3 that he loves and still loves and he admitted that to you over  
4 and over again.

11:10AM

5 Even I got history wrong when I came up here  
6 because I confused M-3 and M-4. I'm not the FBI. I don't know  
7 all the players and all the cartels. So I got confused. I  
8 thought he hadn't been there since M-3 died. It was since M-4  
9 died. And I apologize to you and Lee Roy for that.

11:10AM

10 All we could do is tell you his story and tell  
11 you his truth because it's harder to prove a negative than a  
12 positive, even when it's timely. And now we certainly don't  
13 have the power to go back and recreate the records that don't  
14 exist, get the surveillance that we wouldn't have been able to  
15 do in the first place.

11:11AM

16 We cannot get records as quickly as the  
17 government. We can't call someone up and get food stamp  
18 applications. And all the lawyers in this room know that we  
19 can't print a screenshot off of Shanta's computer and admit  
20 that as evidence. We don't have that power. That's why we  
21 can't prove his case.

11:11AM

22 But we told you his story. If we were going to  
23 make up a story, don't you think it would have been better?  
24 Don't you think we would have marched witness after witness in  
25 here who would be explaining away their multitude of criminal

11:11AM

1 convictions and making hyperbolic statements.

2 But that wasn't us. We brought you real people  
3 who told you their real stories as best as they can remember it  
4 11 years later.

11:12AM

5 You know, we always like to say in law school if  
6 you can't rule it out, it's reasonable doubt. And I think we  
7 did more than just they can't rule it out. But they certainly  
8 didn't rule it out.

11:12AM

9 They brought as quickly as they could a bunch of  
10 records. And the best they could come up with is the addresses  
11 don't match. In 2011, I think I was in college; and I  
12 certainly moved around a lot so my permanent address was my  
13 mom's house. I think that's true of a lot of people in phases  
14 of their life.

11:12AM

15 They walked up to Shanta with her tax returns in  
16 their hand. They proved what I've been saying. They got his  
17 financial records.

11:13AM

18 They've looked into his finances. They have them  
19 in their hand in this courtroom and that they didn't move to  
20 admit. And all they asked her about it was: But this address  
21 though.

22 They certainly didn't disprove our version of the  
23 story. But let's remind them who has the burden of proof in  
24 this case.

11:13AM

25 They have the burden of proof to prove that



1 Lee Roy Villarreal conspired with the intent to distribute  
2 cocaine and/or marijuana with the Gulf Cartel. And one thing  
3 that I very much disagree with Ms. MacDonald on is that this  
4 can all be lumped into one big conspiracy.

11:13AM 5 Because they can charge multiple counts of  
6 conspiracies. People can be convicted of multiple different  
7 conspiracies. And at minimum, if they believe they've proven  
8 that he conspired with Gringo Mike, there's no player after  
9 Gringo Mike's death that's included in any of the alleged  
11:14AM 10 conspiracies that happened after Gringo Mike's death.

11 You can't just bring a minimal amount of evidence  
12 for five different charges and ask you guys to lump that all  
13 together as proof beyond a reasonable doubt of something. They  
14 have to prove beyond a reasonable doubt what Lee Roy was  
11:14AM 15 conspiring to do. They have to prove that he had the intent to  
16 do an agreement.

17 They spent a lot of time up here saying: We  
18 don't have to prove this. We don't have to prove that. This  
19 is all normal. But what would you want as proof beyond a  
11:14AM 20 reasonable doubt in the most important of all of your affairs?  
21 Wouldn't you want them to prove who, what, when and how  
22 something happened?

23 What proof do they have that Lee Roy participated  
24 in whatever conspiracy they are alleging his role was other  
11:15AM 25 than the testimony of whom.

1                   So let's get into the weeds a little bit here  
2 because that's my job is to get into the weeds. So what's  
3 beyond dispute that I learned and was corrected on over the  
4 course of this trial.

11:15AM

5                   In 2010, the Gulf Cartel starts warring with the  
6 Zetas. It's CDG because it's Cartel del Golfo is what it's  
7 referred to as.

11:16AM

8                   In 2011, the CDG starts infighting -- excuse  
9 me -- because Metro Tres died. And in January of 2012,  
10 Metro Cuatro dies, and this is when things become especially  
11 dangerous. That's not to say that they weren't dangerous  
12 before. We've heard about heads on the side of the roads, the  
13 banners bragging about people who were killed. We saw the  
14 people that did that killing come in here and brag about doing  
15 that killing. So it was all dangerous.

11:16AM

16                   But in January of 2013 -- I'm sorry. In January  
17 of 2013, Metro Cuatro dies; and Gringo Mike tells his brother  
18 stop coming.

11:16AM

19                   So what are the conspiracies he is alleged to  
20 have participated in before Gringo Mike dies? Before March  
21 of 2013?

11:17AM

22                   Well, the first one -- the first one we heard  
23 about, but one of them that we heard about in 2012 is Panama.  
24 And Ms. MacDonald did not spend a lot of time on Panama and I'm  
25 assuming that's because their own agent has no evidence that

1 Lee Roy was participating in Panama because he wasn't and they  
2 did a very thorough, very thorough investigation.

3 Agent Sanchez is one of the most credible law  
4 enforcement agents I've ever worked with in a trial. And this  
11:17AM 5 is what everybody pretty much agrees on. Agent Sanchez met  
6 with Tetin, Carlos Fernandez, two confidential informants in  
7 Panama and views a bunch of cocaine.

8 And there's some calls between Agent Sanchez and  
9 Tetin when he gets back to the United States. These are all  
11:17AM 10 recorded. Tetin is coordinating getting the money to  
11 Agent Sanchez.

12 Now, Tetin said at that point he passed the  
13 number off to Lee Roy and never had anything to do with it  
14 again. And he said that until he was confronted with the fact  
11:18AM 15 that all of the other calls that he made were recorded. And it  
16 was the same voice, and it was the same phone number.

17 And he said, I didn't give anyone my phone  
18 number. And there's no calls with any other phone number. And  
19 there's calls between Agent Sanchez and Luis Hernandez, and  
11:18AM 20 those are all recorded. And everything is surveilled and  
21 everything is taken pictures and there's movies and videos of  
22 all of this.

23 And he brings three others to San Antonio and  
24 Agent Sanchez agreed that they identified them. Someone named  
11:18AM 25 Eliud Hernandez; another Hernandez, that is one of Luis's

1 brothers that he told you the first name of that I can't  
2 remember right now, and San Juana Chavez.

3 And not only did they identify them, they took  
4 pictures of them all together. And even after that,  
11:19AM 5 Agent Sanchez and Tetin plan a second trip.

6 On the calls between Agent Sanchez and Luis,  
7 Agent Sanchez told you at least about two specific things that  
8 Tetin said to him. The first one was when Sanchez told him, we  
9 didn't get the full amount of money.

11:19AM 10 And Tetin says: But I told him to. I told him  
11 not to leave.

12 Not he wasn't supposed to do that. He was told  
13 not to do that. I told him.

14 And then after the second interaction they have  
11:19AM 15 Agent Sanchez tells you Tetin said to him: I just wanted to  
16 make sure what he told me happened was correct. That's why I'm  
17 calling you back.

18 Not I just wanted to make sure it happened. I  
19 just wanted to make sure it all went as planned. He just  
11:20AM 20 called me, told me what he says happened. So I want to call  
21 you and make sure what he told me is true.

22 Then we have the calls between Agent Sanchez and  
23 Luis that were all recorded. And Luis came up here and told  
24 you that he didn't know who he was dealing with. But  
11:20AM 25 Agent Sanchez told you that when he got a call from Luis, he

1       said: Hi, I'm Hector's man.

2                   Not somebody sent me, not even not identifying  
3       who sent him. He says: I'm Hector's man.

4                   And then they got Luis' phone and they were able  
11:21AM 5       to run it and do triangulation and do toll data and do all of  
6       the investigative tools that we've heard a lot about.

7                   And Lee Roy is never implicated in this. And,  
8       yes, people are scared in this case. He was scared to testify  
9       against Tetin, the person that he knows is in custody, the  
11:21AM 10       person that all of the witnesses that were in this trial had to  
11       go back to FDC across street for the duration of this trial and  
12       be roommates with.

13                   That's what's scary. And when Ms. MacDonald is  
14       up here giving her opening -- or closing argument, she put a  
11:21AM 15       lot of air quotes around the words "hard evidence." And I  
16       don't dispute that air quotes should be used when talking about  
17       hard evidence in this case because there is none.

18                   There was an abundance of hard evidence in the  
19       Panama full investigation done by the credible DEA agent that  
11:22AM 20       you heard from. He said there were 70-plus exhibits of hard  
21       evidence. So what proof do you have that Lee Roy participated  
22       in that conspiracy other than the testimony of Tetin? None.

23                   And the other conspiracy before Gringo Mike is  
24       killed is the allegation that Lee Roy is distributing his  
11:22AM 25       brother's marijuana once it gets into the United States.

1                   And as much as I want to separate these two, I  
2                   don't want to be disingenuous. I believe under the law that if  
3                   you believe he was conspiring with his brother at that time,  
4                   that these two are combined. Because that's one conspiracy,  
5                   distributing marijuana for his brother.

11:23AM

6                   It's a group of people working for his brother  
7                   with the goal to move marijuana for his brother.

8                   What proof do you have that Lee Roy participated  
9                   in this conspiracy? Testimony. The testimony of Jose Romo who  
10                  said that Lee Roy said to pick up money in a black Camaro  
11                  outside of a fitness center and that he got marijuana from one  
12                  of Lee Roy's men who told him to bring it to Houston.

11:23AM

13                  But Mr. Romo, who very much wanted to come  
14                  testify in this case, couldn't identify Lee Roy in court. He's  
15                  obviously not scared of Lee Roy.

11:23AM

16                  He wrote a letter. I want to testify against  
17                  Lee Roy. He got up there and said: It doesn't matter how much  
18                  time I've gotten off of my sentences recently. That's  
19                  irrelevant. I wanted to come testify against Lee Roy.

20                  And then Ms. MacDonald said: Can you point him  
21                  out? She asked him three times: Can you point him out?

11:24AM

22                  And he says: No. The one defendant sitting at  
23                  the defendant's table next to all of his lawyers in this case  
24                  that we've all been staring at who has scars on his face that  
25                  apparently people have been making fun of him for. And he

11:24AM

1       couldn't identify Lee Roy.

2               There's no other reason for that other than  
3       that's not the person that he thought he was. I can't come up  
4       with one.

11:24AM

5               And what hard evidence do they have to  
6       corroborate anything about this? Any black Camaro? I can't  
7       bring you a record saying Lee Roy Villarreal never owned a  
8       black Camaro. That doesn't exist.

11:25AM

9               You know what does exist is car registrations.  
10       You know what does exist is walking by someone's business to  
11       see if there's a black Camaro there. You know what does exist  
12       is pole cameras. Tickets. Look through his record.

11:25AM

13               What he told you is true. He was an insanely  
14       reckless driver up until the situation that we're in. All of  
15       those tickets the government has access to. Did you hear about  
16       any black Camaro that's owned by Mr. Villarreal?

11:25AM

17               Got marijuana from one of Lee Roy's men and  
18       brought it to Houston. Who is Lee Roy's men? Were they  
19       interviewed? Are they in custody? Are they on any of the  
20       extensive amount of wiretaps that we know was occurring  
21       specifically to monitor the distribution of marijuana from  
22       Gringo Mike to Houston? That was that whole investigation.

11:26AM

23               That's the other most credible witness that we  
24       heard from, that we brought you. Rene Gonzalez. And none of  
25       those wiretaps are mentioned in the FBI case file that we're

1 here for. Operation Hermandad, which is a simultaneous  
2 investigation for the distribution of controlled substances out  
3 of Gringo Mike's plaza through the Texas Chicano Brotherhood.  
4 And that agent remembered everything.

11:26AM 5 I don't know or care if it's because his memory  
6 is that good or if it's because he was important enough to him  
7 to know what he was talking about when he came to testify to  
8 you guys. It's one of the two. And both of them are his job.

9 Either you're as invested in your case that you  
11:26AM 10 spend years and years and years working on to protect the  
11 citizens of our country that you remember them, you remember  
12 the nickname. You remember the real name. You remember the  
13 wiretap. You remember what their role was in the conspiracy.  
14 And you remember how they were referenced, were they on the  
11:27AM 15 wiretap, was it their phone, were they talked about. And they  
16 didn't bring any of those people.

17 And you know what we also heard? I asked  
18 Agent Gonzalez: Did anyone from the FBI ever ask you about  
19 Lee Roy?

11:27AM 20 I thought the answer was going to be no, but they  
21 did. In 2011 or 2012, they said: Do you have Lee Roy on  
22 anything?

23 No. There's no record of that either. So either  
24 that didn't happen and that's why it wasn't documented and it  
11:27AM 25 should have been happening, or it's another thing that is



1 exculpatory good evidence for Lee Roy that was left out of the  
2 records.

3 I don't know which one it is. Either they didn't  
4 do it at all or they did it and they didn't write it down  
11:28AM 5 because it didn't say Lee Roy was there.

6 And then you heard from Benicio.  
7 Comandante Veneno. He said: I was charged with murder in high  
8 school. He said: I murdered lots of people. I couldn't even  
9 begin to think about how many people I murdered during the war  
11:28AM 10 between the Gulf Cartel and the Zetas.

11 And you know what we heard about Benicio, too,  
12 was from Panochitas, as Mr. Saenz-Tamez, our first witness.  
13 And I said who? Who was left after you cleaned up everything  
14 that was related to Gringo Mike? Cleaned it up.

11:28AM 15 Right? We learned what "cleaned it up" means.  
16 It means he killed everything related to Gringo Mike except a  
17 few people that he named and he agreed, yeah, those people will  
18 go out of their way to show their loyalty had changed.

19 They had to prove it extra because when everyone  
11:29AM 20 else volunteered to drop their weapons and pledge their loyalty  
21 to Pelon, that wasn't good enough. He burned them alive. All  
22 of them.

23 And Lee Roy was sitting in here and listened to  
24 these people talk about that, talk about his brother that way.  
11:29AM 25 His brother was a terrible guy. But it was his brother and he

1 loves him and he's admitted that to you and he had to listen to  
2 that.

3 And we learned that Benicio really, really had to  
4 prove that he changed his loyalty so he wouldn't be cleaned up,  
5 too.

11:29AM

6 And so he says Mocho says bring the marijuana to  
7 Sandalio. Mocho, Agent Lee, says he has no clue if he was ever  
8 arrested. But the picture of Mocho that Ms. MacDonald put up  
9 and entered into evidence has on the same exact orange that  
10 Mr. Saenz-Tamez came in. Because Mocho is in custody.

11:29AM

11 So he was either not interviewed and not asked  
12 about this, which is not doing your job, or he was interviewed  
13 and he was asked about this and he didn't implicate Lee Roy and  
14 there's no record of that.

11:30AM

15 Bring the marijuana to Sandalio. This  
16 restaurant. Did we hear even if it still exists, if it ever  
17 existed. Who owned it? Was this even the right owner of the  
18 restaurant? Was he asked any questions? I don't know.

11:30AM

19 Then Lee Roy says: Leave the marijuana in a car  
20 outside the restaurant. I left this blank because in all  
21 honesty, I couldn't remember from my notes if they said what  
22 kind of car that was.

11:30AM

23 So either he didn't remember the kind of car it  
24 was or he didn't tell you the kind of car it was or it was a  
25 kind of car that they never confirmed Lee Roy had. Because you

1 know full well that if it was a car Lee Roy had and if it was  
2 in his name and if it had any tie to him at all or even if it  
3 matched any of the other cars talked about, we would hear it.

11:31AM 4 Lee Roy says: Now I want you to go pick up maybe  
5 the same car, maybe a different car, some kind of car, I  
6 don't -- maybe he said it -- at the gas station.

7 Same deal. I won't beat dead horses. Well, a  
8 little bit. That is my job, but I won't right now. We didn't  
9 hear about that.

11:31AM 10 Then we hear the marijuana never got to Houston.  
11 Lee Roy stole it from his brother, found some other money  
12 somewhere and said: Bring that to my brother.

13 This doesn't even match. What is he? Is he in  
14 Panama helping get new suppliers? Is he leaving black Camaros  
11:31AM 15 outside of fitness centers?

16 And we heard that he had already been implicated.  
17 Is he distributing out of Rhino, or is he putting things in  
18 cars?

19 Did anyone put pole cameras anywhere to see if  
11:32AM 20 that would happen? In the 40 to 50 wiretaps that resulted in  
21 the indictment of 40 to 50 people for this conspiracy was  
22 Lee Roy mentioned? Did they round up any of those 40 to 50  
23 people and bring them in here and say: Oh, he left them out?

24 Even Gringo Mike is on those wiretaps, three of  
11:32AM 25 them. Is Lee Roy the most brilliant criminal mastermind of all

1 time?

2 Now, Ms. MacDonald asked Agent Gonzalez: Well,  
3 if they were only talking about personal stuff, you wouldn't  
4 have it recorded. I wouldn't care if they did.

11:32AM

5 Because talking to your brother about brother  
6 stuff still isn't a crime even if he's in the Gulf Cartel. You  
7 and I may have made different choices. I think it's pretty  
8 rough that Lee Roy put his family and friends in the position  
9 to worry about him and to be in a cross fire of bullets.

11:33AM

10 But if my sister was running a criminal  
11 enterprise, would I cut her off? I love my sister. Does that  
12 make me a criminal? Should he have shut his brother out?  
13 Maybe.

11:33AM

14 But us feeling differently about that is not  
15 proof beyond a reasonable doubt that he is conspiring to  
16 distribute cocaine or conspiring to kidnap and murder anybody.

17 And we went through a list of some of the top  
18 people with Tetin. He agreed that Tico shipped marijuana to  
19 U.S. on the wiretaps. He agreed that Mellado Cruz was a new  
20 leader in Miguel Aleman. He was on the wiretaps.

11:34AM

21 Jesus Ramon Garcia, leader in Camargo. Agreed.  
22 Confirmed on the wiretaps.

23 Alan Alpizar-Cordoba, Fiscal. Yeah, he was  
24 there. On the wiretaps.

11:34AM

25 Judy, Juan, Banda, Corona, collect a piso. Rayo,

1 main accountant.

2 Tetin said: I don't really know who  
3 Edgar Benitez is. So I believed him. But he is also on the  
4 wiretaps.

11:34AM

5 Felipe Banda, now we've learned that's Payaso.  
6 He's on the wiretaps. Payaso is on the wiretaps. They all  
7 existed on the wiretaps.

11:35AM

8 We had a three-day weekend after Lee Roy  
9 testified. Did any agent come in and say: Oh, once we learned  
10 that, we went back and listened and, yeah, we identified  
11 Lee Roy on the wiretaps.

12 Can I do that? Absolutely not. I don't have  
13 that power or ability, but they do. So either they did it and  
14 he wasn't there or they didn't do it at all.

11:35AM

15 Mario Alberto Renteria Gonzalez,  
16 Oscar De La Cerda Torres. Everybody is on the wiretaps.  
17 Lee Roy is not even mentioned. Gringo Mike's brother. Bring  
18 it to Gringo Mike's brother. Bring to Rahas. Bring to it  
19 Scarface. Bring it to El Talivan. No, nothing.

11:35AM

20 We also heard from Roel Garza, who admits that he  
21 was distributing drugs for Gringo Mike during this period. And  
22 he said that he barely saw Lee Roy. I think all of these  
23 witnesses said maybe they saw him a couple of times in the  
24 U.S., maybe they saw him a couple of times in Mexico, maybe

11:36AM

25 they didn't see him at all during that period; and if they did,

1 he was partying.

2 Orlando Hernandez admits distributing drugs for  
3 Gringo Mike's operation. Never worked with Lee Roy on that.

4 Gerardo Villarreal, working with the Texas  
5 Chicano Brotherhood, doesn't mention Lee Roy at all.

6 Lin, the intended kidnapping target. He was  
7 stealing drugs from Gringo Mike and selling them, never  
8 mentioned Lee Roy being involved with that.

9 Panochitas, he was working for Gringo Mike and  
10 then I think he went and was under somebody else's supervision  
11 but still under Gringo Mike. And then he said, well, really  
12 Pelon always had the power.

13 I don't know what's true and what's not. Of  
14 course he has to say that. Pelon is in federal custody where  
15 he is. But I believe that Pelon had all the power. He never  
16 mentions that.

17 Tonio, who has been a confidential informant  
18 since 2011 and was working with Gringo Mike up until  
19 Gringo Mike's death and was a target to be killed after  
20 Gringo Mike's death, said he had never seen Lee Roy at all  
21 during that period of time.

22 Mr. Davila, these are all people that have  
23 admitted being involved in the distribution of cocaine during  
24 this period of time. Then Gringo Mike dies, and it's beyond  
25 dispute.

1 Pelon is in power. He eviscerates anything  
2 connected to Gringo Mike unless you're one of the few  
3 exceptions, you have to extra prove your loyalty.

4 Everyone agrees that Lee Roy was in danger.  
11:37AM 5 Couldn't go back to Mexico at that point. Even on the  
6 recording, you hear them talk about it. Maybe you could come  
7 and wear a mask. Oh no, you can't go back there.

8 So we have Panochitas comes. Mr. No, ma'am, I  
9 killed 150 people. And he says he was contacted by Choco or  
11:38AM 10 M-90. I don't know who that is, but I know for sure we didn't  
11 hear from him.

12 Lee Roy wants to distribute cocaine for his  
13 brother's murderers. That's what you have to believe to find  
14 proof beyond a reasonable doubt. Would it cause you hesitation  
11:38AM 15 in your own affairs? Even if you believe he did any of the  
16 things before his brother died, would it cause you to hesitate  
17 that he would distribute drugs for his brother's murderers?

18 He almost cried on the stand talking about his  
19 brother. But it's possible that somebody contacted Panochitas  
11:39AM 20 because Lee Roy was trying to get information at the time.

21 The agents. Agent Moody, they agreed that he was  
22 talking about Panochitas and they presumably were saying  
23 historical information is not good enough. We need you to know  
24 what's going on now.

11:39AM 25 So he's trying to find out what's going on now,

1 if you even believe that. Because Panochitas has no idea who  
2 Lee Roy is, what he looks like, what he sounds like. Couldn't  
3 identify him even though there was no record made at the  
4 moment, he couldn't identify a picture of him. And he just  
11:39AM 5 said, I believe the text message. It was him.

6 We've also heard that Fiscal made up a fake name  
7 that everyone was supposed to use, called Pecuaka.

8 We have no idea who is texting this person or if  
9 these texts ever happened because Panochitas, the mass  
11:39AM 10 murderer, is getting ten years off of his sentence.

11 But we don't hear from Choco. We don't hear from  
12 El Quince. El Quince brought money to Choco in a dirty DeWalt  
13 bag. One thing we know for sure is that Lee Roy never found  
14 the money if he was trying to find the money, because everyone  
11:40AM 15 agrees on that on the recording as well.

16 Did you find anything? Did they find anything?  
17 Do you think there's anything there? And these underground  
18 containers he's talking about, he told the FBI that he learned  
19 about them in 2013. That's also beyond dispute.

11:40AM 20 So what evidence other than testimony of  
21 Panochitas is there that this conspiracy existed? No hard  
22 evidence, right.

23 And then Indiana. Dionicio. Dionicio says that  
24 for years he transported cocaine for Juan Garcia -- for years.

11:41AM 25 One thing we couldn't lock down is what year.



1 But we know it's after his brother's death. We know it's after  
2 the FBI's interested or heard word that Lee Roy is involved in  
3 things.

4 He's saying that all of this cocaine is being  
5 delivered out of Rhino Collision where they have surveillance  
6 cameras, where they worked with police giving them surveillance  
7 cameras.

8 The FBI didn't have to come in and say, I want to  
9 know if your surveillance cameras have you dealing cocaine on  
10 them. They had to send in one of the law enforcement agencies  
11 that have a contract with Rhino and R&H Collision and say  
12 something else happened.

13 You can lie to get a consensual information from  
14 a business. They already had police go in and ask for that  
15 before and they gave it up willingly.

16 And he says he's transporting cocaine with  
17 Juan Garcia for Albert Mendez and El Tio, these two DTOs.

18 Albert Mendez in custody, didn't hear from him.

19 El Tio, I don't know who that is. But we  
20 definitely didn't hear from him.

21 El Guero, I don't know how he's related. He  
22 mentioned him, he said Lee Roy introduced him to him, but then  
23 he admitted that wasn't true. He met El Guero through  
24 Albert Mendez or through Juan Garcia.

25 Then Juan brings Dionicio to somewhere in

1 Rio Grande or Roma -- somewhere. He doesn't even say where --  
2 where Lee Roy just hands him bricks of cocaine. And for the  
3 only time in the entire years-long period that he's conspiring  
4 with Juan to distribute cocaine, this one time he puts it in  
5 his personal vehicle and he brings it to Allen Bates in  
6 Indiana.

7 And then he says he brings the money back and  
8 gives it to Tony, somebody that nobody that worked at  
9 Rhino Collision could identify.

10 We did hear from Allen Bates, and he has no clue  
11 who Lee Roy is. He thinks he saw a mechanic, not at all  
12 involved in any of the things that he was doing, who might have  
13 had the word "Lee Roy" on his uniform.

14 He was there multiple times and always Ignite.  
15 And the truth is I have no clue if Juan Garcia was distributing  
16 drugs out of Rhino. I know none of Lee Roy's people thought  
17 that or think that or have any evidence of that. Nobody does.  
18 But I have no idea.

19 We even brought you Mike Castro, and I have no  
20 idea whether to believe Mike Castro. But we brought you  
21 everything we could. Everything we could.

22 Even if you believe beyond a reasonable doubt  
23 that Juan Garcia and Mike Castro were somehow involved with  
24 Allen Bates, they certainly haven't brought you any proof that  
25 Lee Roy was.

1                   And Baldo, the manager, graduated magna cum laud  
2                   from law school recently studying for the bar exam is going to  
3                   risk his possibility of having a bar license to willingly come  
4                   in here and testify. He has no knowledge of anything happening  
5                   at Rhino.

11:44AM

6                   Annabelle.

7                   And you know who could have proved themselves one  
8                   way or the other? The government could have done that.

9                   And then we hear from Tonio. And I'm not really  
10                  sure what Tonio does or doesn't prove, but let's go through it.

11:44AM

11                  So first we heard in the government's closing  
12                  argument that there's nothing on the recording where Lee Roy is  
13                  trying to get information. I didn't think they were going to  
14                  say that so during the break I found three quotes. Three of 70  
15                  pages.

11:45AM

16                  "Was Panochitas also killed or is that a rumor?  
17                  Who was doing that? Panochas or was it Chiapas? How is the  
18                  shit going over there? Because I haven't been over there  
19                  recently."

20                  You know what we hear in the recording? We hear  
21                  proof that Lee Roy has some knowledge of where his brother's  
22                  ranches are, which he told you. Even his friends that nobody  
23                  is alleging are involved have been to these ranches.

11:45AM

24                  We have proof that Luis was the one that had more  
25                  information. We have proof that he's relying on Tonio. We

11:45AM

1 also have proof that the linguist was doing his best, but  
2 there's multiple meanings for different words in Spanish and he  
3 made 135 changes to the transcript after he met with Tonio.

4 So some examples. Lee Roy: "This is what I  
5 remember. Is this right?"

6 Tonio: "More or less."

7 Lee Roy: "Luis, is this the curve? Is it?"

8 "Yes. Yes. That's the curve."

9 And then Lee Roy says: "Oh, yeah. It's a road  
10 for ATVs."

11 Because that's what he did at the ranch is ride  
12 ATVs.

13 Luis: "What's the name of the old man at the  
14 ranch?"

15 Like Peter. This is why I asked Agent Lee if in  
16 Spanish sometimes sentences just mean inflections to be  
17 questions because this looks likes sentences.

18 Lee Roy: "Is he like Peter? Help me, Luis.  
19 What does he look like?"

20 And then there's this bit here.

21 "Smaller than I am. A little bit more?"

22 "No. He's not tall or short."

23 Say that out loud. He's asking Luis. He's  
24 helping him describe him.

25 Then at the bottom: "Does he have a belly?"

1                   And then here they put words in his mouth. I do  
2 not speak Spanish. I do not know what "si ahuevo" means. But  
3 I sure know it doesn't mean one thing when a confidential  
4 informant says it and something else when Lee Roy says it.

11:47AM 5                   This is the United States versus  
6 Lee Roy Villarreal, but it's not really. It's the  
7 United States government against Lee Roy Villarreal because we  
8 are all the United States. It is their case against Lee Roy.

9                   And one thing that I do agree with this is about  
11:47AM 10 is that it's about money. I don't know how much money the FBI  
11 and the U.S. Attorney's Office has spent on this investigation  
12 since 2011. I tried to find out. Nobody seemed to know that.

13                   But I do know, first of all, and we heard from  
14 the witnesses that these prosecutors themselves have been  
11:47AM 15 involved in this since 2011. So it's not like they had nothing  
16 to do with this case until 2013 or 2014, whenever that was  
17 said.

18                   But I do know that the idea that it's ridiculous  
19 that a 22-year-old boy from the Valley, who was born to a  
11:48AM 20 mechanic and a janitor doesn't have experience with banks until  
21 his 20s, that's not ridiculous.

22                   The idea that that's ridiculous is offensive.  
23 Not everybody has the experiences and the life that we do. And  
24 this entire investigation and multiple slides from the  
11:48AM 25 government's case have been about Lee Roy having money.

1                   Because it doesn't make sense he doesn't know  
2 what banks are, but it's certainly impossible that this kid  
3 that grew up in the Valley with a janitor for a mom has money  
4 and successful businesses unless it's because he's in the Gulf  
5 Cartel.

11:48AM

6                   They have his bank records. They had a forensic  
7 financial analyst.

8                   And Agent Moody said: Well, we always do that.

9                   Good. You should always do that. You should  
10 always have a financial analyst look over things if you think  
11 somebody is laundering money. Great.

11:49AM

12                  There's no report. Is that because it never  
13 happened or did it happen because they didn't find anything  
14 implicating Lee Roy so they didn't write it down. I don't  
15 know.

11:49AM

16                  I know the IRS is one of the multiagency agencies  
17 that are involved in Project Hermandad and they didn't come in  
18 here and testify. I know that Ms. MacDonald had tax returns in  
19 her hand and she didn't say anything about them to you.

20                  I know that Agent Moody said that in maybe 2013  
21 or 2012 when he wrote his first interim report the reason that  
22 they didn't search anywhere is because he didn't think they had  
23 probable cause.

11:49AM

24                  You don't need probable cause for everything.  
25 But that sure is a low burden that they didn't have. There's a

11:49AM

1     ton of things they don't need any of that for. A lot of things  
2     you only need to be able to articulate the possibility of a  
3     crime to get and they didn't do any of those, even though they  
4     wrote all of them down in their reports.

11:50AM

5             Pole cameras, surveillance, running vehicles,  
6     doing drive-bys, voluntary searches, asking other agencies,  
7     wiretaps, undercover agents.

11:50AM

8             So how did we get here? Well, then all they had,  
9     because Lee Roy magically is able to escape wiretaps and  
10    magically able to escape any evidence in his tax returns  
11    despite everyone thinking that it's impossible for him to make  
12    that amount of money.

11:50AM

13            They talked to people who are admitted and known  
14    workers at the FBI who want to prove they're not loyal to  
15    Gringo Mike; who are scared of Pelon, who is currently in  
16    federal custody; and they have an opportunity to get time off  
17    their sentence and not be charged with a crime.

11:51AM

18            And Agent Lee honestly -- very honestly told you  
19    of two techniques that they use. One that the FBI uses, which  
20    is telling the potential informant everything that the FBI  
21    thinks they know about the potential suspect.

22            And then the prosecutor tactic of coming in and  
23    saying: Well, you have a choice. You could be a witness or  
24    you can be a defendant.

11:51AM

25            And they don't have to file a 5K-1 or whatever it

1 is if they never charge them. We don't have documentation of  
2 why they are choosing not to charge people with things. But we  
3 know they say to people: You can either be a witness or you  
4 can be a defendant. What would you choose?

11:51AM 5 Lee Roy is an opportunity, not a liability to  
6 these people, these people that you heard from.

7 And then in 2017, Agent Lee signs another  
8 document to get more funding for his OCDEF multiagency task  
9 force and he writes in that: "Lee Roy Villarreal is the  
11:52AM 10 highest-ranking living Gulf Cartel member and his successful  
11 prosecution will assure the dismantlement of the transnational  
12 criminal organization."

13 He writes that. Based on what you've heard in  
14 this trial, it's offensive. If you believe this, you should be  
11:52AM 15 offended that they didn't bring proof of it because you have no  
16 choice but to acquit a very dangerous man. It's not fair to  
17 you and it's not fair to the community.

18 And if you don't believe this, you should be  
19 offended for Lee Roy because his life has been turned upside  
11:52AM 20 down by this allegation that they cannot prove.

21 Thank you, finally, for being the last line of  
22 defense between any individual and the awesome power of the  
23 government because they have an awesome power and they did not  
24 use it properly here.

11:52AM 25 Now Gerry will come up and talk to you about the



1 kidnapping.

2 MR. MORRIS: Good morning. As Ms. Cogliano said, I'm  
3 going to talk to you about the kidnapping. There is a lot of  
4 overlap because a lot of the things she said equally apply to  
5 the kidnapping.

11:54AM

6 But I want to start with what seems to be the  
7 overriding principle, the overriding theme of the government's  
8 case.

9 And that is, we brought witnesses here to tell  
10 you Lee Roy Villarreal was involved in the kidnapping. And you  
11 should believe them because, yes, they kill people for a  
12 living. Yes, they sell drugs to your kids. Yes, they launder  
13 money. Yes, they've lied to everybody in every phase of their  
14 life to cover up what they're doing. Yes, they've lied  
15 multiple times to the police, but they won't lie to you about  
16 Lee Roy Villarreal despite the fact that lying about  
17 Lee Roy Villarreal gives them the one thing that all of us  
18 agrees is the most precious thing we have and that's a chance  
19 at freedom.

11:54AM

20 A chance to in some cases avoid prosecution  
21 altogether, and in many cases to avoid prosecution on the more  
22 serious things they've done. And in all cases, cut the  
23 exposure that they have from the things that they've done.

11:55AM

24 And I began talking to you on opening statement  
25 about where's the hard evidence. And what is hard evidence?

11:55AM

1 It's evidence that would support one single word of what these  
2 folks have told you.

3 Evidence like, you know, we brought you to show  
4 that Lee Roy Villarreal was driving to Austin on the 26th of  
11:55AM 5 May, when he was supposedly in the Valley involved in a  
6 kidnapping and that he was there all weekend in Austin.

7 And if we've learned one thing during this trial,  
8 it is that irony is not dead. When Joanna Vega was on the  
9 stand or when Shanta was on the stand, well, did the two of you  
11:56AM 10 talk? When is the last time you talked to her about this? Did  
11 you talk to her about what her testimony was going to be today?

12 As if if they talked, if they spoke a single word  
13 to each other about what happened that weekend, then you should  
14 never believe them. The irony is the same government that the  
11:56AM 15 lawyer works for that asks those questions is the government  
16 that stuck all these people together in the same facilities  
17 where they could talk to each other about what they were going  
18 to say if they chose to where they could hear the rumors going  
19 around as some of our witnesses testified about, about the  
11:56AM 20 case. That's a reason not to believe those people for sure.

21 But let's talk about some of the witnesses that  
22 the government brought you. Hector Barrios-Hernandez a/k/a  
23 Tetin. Hector testified that he was instrumental in working  
24 out agreements between drug cartels to cooperate with each  
11:57AM 25 other so that they could sell more drugs, move more drugs into

1 the United States.

2 But he was only prosecuted for the deal in Panama  
3 that you heard about. And you also heard that he's been in  
4 jail long enough now to discharge that sentence. So the only  
11:57AM 5 thing that he's got between him and freedom and between him and  
6 being reunited with his family is this case.

7 And I asked him, has anybody told you how much  
8 you have to say about the person on trial here to win your  
9 freedom?

11:58AM 10 No. You just have to keep telling them.

11 Right. What are your priorities?

12 Well, my first priority is my family.

13 If you went back to Reynosa, would you feel  
14 comfortable walking down the street?

11:58AM 15 No.

16 Have you talked to them about helping you stay in  
17 the country?

18 Well, I brought it up. We haven't made any  
19 agreement on that.

11:58AM 20 The government will file a 5K1 motion for  
21 downward departure and will recommend that the Court reduce his  
22 sentence. The only sentence that is left to be assessed in his  
23 case is one connected with this kidnapping and that sentencing  
24 has been put off, put off until after he comes in here and  
11:58AM 25 testifies to you about what he said about the kidnapping.

1                   Let me talk to you about what he said, and then  
2 we'll compare it to what some of the others said.

3                   And this is the kind of evidence that I implore  
4 you to look at. Did they testify consistent with each other?  
11:59AM 5 And why is this so important? Why am I spending so much time  
6 on this testimony?

7                   Well, when you heard this charge read and when  
8 you take it back to read it, nowhere else does it tell you to  
9 be skeptical of a class of witness. It tells you treat the  
11:59AM 10 defendant like any other witness.

11                   But when it comes to witnesses like  
12 Mr. Barrios-Hernandez, did the witness have any particular  
13 reason not to tell the truth? Did the witness have a personal  
14 interest in the outcome of the case? Did the witness have any  
11:59AM 15 relationship with the government or the defense?

16                   Well, he certainly checked all those boxes.

17                   And other things that you may look at in the  
18 charge: In this case the government called several witnesses  
19 with whom the government has entered into contractual plea  
12:00PM 20 agreements, who are alleged to have been accomplices or  
21 co-defendants.

22                   Such plea bargaining, yeah, it's fine. It's  
23 legal. But the Court also cautions you to look at these  
24 witnesses' testimony with skepticism because of what they're  
12:00PM 25 getting in exchange. They're getting their freedom.

1                   So Mr. Barrios-Hernandez, he really went  
2 overboard in putting Lee Roy in this case. He's there just  
3 about every minute of every day. He's taking Francisco into  
4 the back room and working him over, trying to get information  
12:00PM 5 from him, although none of the other witnesses told us -- all  
6 the other witnesses that saw Francisco said he didn't have a  
7 mark on him. No indication that he had been beaten up. No  
8 indication of any trauma whatsoever. But Tetin says Lee Roy is  
9 back there working him over.

12:01PM 10                   Lee Roy is helping plan the thing. He's  
11 instrumental in planning. But most importantly and why I spent  
12 so much time with him and making a calendar -- y'all learned I  
13 can't write very legibly -- is he puts Lee Roy there on the  
14 18th. And I took great pains to get him to expand on what  
12:01PM 15 Lee Roy did on the 18th to get him to testify when the last  
16 time was he saw Lee Roy.

17                   Because the 18th is when the sonogram was taken.  
18 And yes, they don't take a picture of the father on the  
19 sonogram. But those of you that have been through this,  
12:01PM 20 especially women if you have children, you remember whether  
21 your husband was there or not, don't you?

22                   You remember how attentive he was to you during  
23 that time when you're -- if you had problems with your  
24 pregnancy when you were on bed rest. Where was your husband?  
12:02PM 25 You'd remember if he went to the doctor with you.

1 Well, the criticism is, well, you didn't bring us  
2 the doctor's records. Well, you saw how just on a dime the  
3 government can go get food stamp records. Well, the government  
4 knew who the doctor was.

12:02PM

5 If there was something wrong with those records  
6 or something that would have benefitted them, they would have  
7 brought them in. They have the burden of proof.

12:02PM

8 So then we move on and Tetin is relentless. He's  
9 there, he's helping us plan. He's there. I don't remember him  
10 being there a couple of days, but he was there that last day,  
11 the 28th.

12:02PM

12 Well, we brought you the traffic records and, no,  
13 it doesn't say which way he was going. But the traffic ticket  
14 records show he was going somewhere a long way from McAllen on  
15 the 26th. And when you get back to the jury room, you can ask  
16 for our exhibits. There is an exhibit in evidence that shows  
17 you where Three Rivers is if you don't know. It shows you the  
18 amount of driving time to Three Rivers. It shows you the  
19 driving time to Schertz. He was a long way from McAllen on the  
20 26th. And he went to Austin.

12:03PM

21 Well, and those witnesses were attacked.

22 Again, like I said, well, did you get together?  
23 Did you talk with each other?

12:03PM

24 Yes. She had to call her to tell her I was going  
25 to be calling. But there was -- you heard her testify there

1 was no getting together to make their stories match.

2 The government brought you the food stamp  
3 application. What the government has conclusively, I would say  
4 beyond a reasonable doubt proven with that exhibit, is that 24-  
12:03PM 5 or 25-year-old individuals who are doing something that --  
6 receiving something in the mail is very important to, like food  
7 stamps, that they use their parent's address.

8 How many of you did that when you were 24 or 25?  
9 If you have children that age, how many of your children have  
12:04PM 10 used your address as their mailing address for important  
11 documents?

12 Lee Roy -- and let's say for a minute, okay,  
13 well, let's just discount Joanna's testimony. Let's not listen  
14 to her. But don't you have to ask yourself, well, if Lee Roy  
12:04PM 15 wasn't taking his wife to see her friend, what in the heck is  
16 he doing? Did he drive -- and you will see on the exhibit --  
17 six hours away from McAllen or Schertz, I believe is four and a  
18 half hours. Did he just decide to put her in a car and drive  
19 her down I-35 for the heck of it? Of course he was going to  
12:04PM 20 Austin.

21 So that is the significance of Tetin and this  
22 time line.

23 And then Roel Garza. Right. Roel Garza was not  
24 under arrest when he first mentioned Lee Roy, but Roel Garza's  
12:05PM 25 position was, if I recall his testimony correctly, was he had

1       been found out. He was known to law enforcement as being  
2       someone who was involved with the Gulf Cartel and moving dope.

3               But they chose not to arrest him because they  
4       wanted to use him as a confidential informant. So they chose  
12:05PM 5       not to arrest him. Yeah, he's not charged. But if you can  
6       imagine he's got one of those little red dots on him, and he's  
7       in the cross hairs of the government. He knows he's going to  
8       get charged at some point.

9               So what does he do? He lies to them. He tells  
12:05PM 10       them, I'm going to the dentist, I believe it was and did a drug  
11       deal while he was doing that. They find out about it. They  
12       say: Okay. All is forgiven. Go back and be a confidential  
13       informant again.

14              And he continues to lie to them. And eventually  
12:06PM 15       they charge him. But while he is a confidential informant,  
16       while he's moving dope and lying and all that other stuff, he  
17       knows -- and I asked him, what were you trying to do? Trying  
18       to better my position.

19              He knows he's got to give them something. And as  
12:06PM 20       you heard the agent say, we weren't interested in what was  
21       going on in Mexico. We're interested in what's going on in the  
22       United States.

23              So who is he going to give them? He can't give  
24       them somebody that's really dangerous. He can't name these  
12:06PM 25       people that could come over and kill him. He's one of Fiscal's



1 men, one of his troopers; so he's not going to name Fiscal.

2 But here's Lee Roy. Big prize. The brother of a  
3 cartel leader. How much more time do you think that  
4 information bought him? How much forgiveness do you think that  
5 information bought him so that he could continue to do the  
6 things he was doing, which was work for the government and move  
7 dope?

8 But now he has been prosecuted. The government  
9 again is going to move for a downward departure to lessen his  
10 sentence. All is forgiven and his sentencing is still pending,  
11 so he doesn't know what he's going to get. One-third off of  
12 what. He doesn't know.

13 Orlando Hernandez. Orlando is pretty much in the  
14 same boat. He's dealt a lot of dope. Been involved with a lot  
15 of bad people. He's interviewed by the FBI twice in 2013 after  
16 Gringo Mike is dead and he doesn't name Lee Roy.

17 He said: Well, I was scared because Lee Roy and  
18 Gringo Mike were powerful. Gringo Mike is dead, Lee Roy is not  
19 powerful.

20 He says, well, I didn't know he was dead.

21 Well, you heard about all the rumor mill in the  
22 prison. Do you really believe that nobody among these guys in  
23 prison knew that Gringo Mike had been killed?

24 So he finally in 2017, after there's an  
25 indictment in this case, is interviewed by the prosecutors in

1 this case and the FBI and says: I just forgot. Lee Roy was  
2 there. I just forgot. Really kind of refreshed my memory when  
3 I got charged with this kidnapping and you came to me and  
4 started talking to me. Now I remember Lee Roy was involved.

12:08PM

5 Kidnapping sentencing is still pending. He  
6 doesn't know what he's going to get, but whatever it is the  
7 government is going to give him a break, a third.

12:09PM

8 Gerardo Villarreal. Same thing. They're going  
9 to give him a break. But the thing about Gerardo is -- and my  
10 recollection of the testimony varies from the government's  
11 lawyers. And the way you resolve that is if you have a dispute  
12 about particular testimony, you can send the judge a note that  
13 you have a dispute, telling him what the dispute is, and you  
14 can ask that the testimony be read back.

12:09PM

15 But my recollection is that Gerardo was there for  
16 the two attempts of the kidnapping and also he was very much  
17 involved in the actual kidnapping. He was the guy dressed up  
18 like a police officer.

12:09PM

19 Interviewed multiple times. But you know, he  
20 just didn't take the bait. Maybe he's just not smart enough to  
21 know what's expected of him. Never ever identified  
22 Lee Roy Villarreal as being part of that kidnapping. Never. A  
23 guy that's there multiple days.

12:10PM

24 Jesus Fernando Gonzalez, Gringo Mike's friend  
25 from prison. Jesus had been charged and incarcerated twice for

1 federal drug offenses. One may have been state, memory fails  
2 me. But two times in any event for drug offenses.

3 He is talked to in 2014, after all these other  
4 folks are talking about Lee Roy. For some reason, when he is  
12:10PM 5 interviewed, Agent Moody testified he is shown a picture of  
6 Lee Roy Villarreal.

7 Why? Why do you show someone that you're  
8 investigating, you're considering as a possible witness, a  
9 picture of the person that you suspect? Regardless of why you  
12:11PM 10 did it, what affect does it have? Doesn't it tell that person  
11 what you're looking for?

12 But you know, he couldn't identify the picture.  
13 He couldn't identify the picture when he was interviewed. Even  
14 though he says he met Lee Roy in Mexico, but he couldn't  
12:11PM 15 identify the picture.

16 But when he comes in here and testifies, he can  
17 point Lee Roy out. Well, what's changed between the time he's  
18 interviewed in 2014 and when he's in here today? No charges  
19 filed in exchange for truthful testimony. No charges filed  
12:11PM 20 against someone that was involved in the kidnapping. No  
21 charges whatsoever.

22 Now, Lorenzo -- Jose Lorenzo Davila. I guess he  
23 didn't get the memo either. He came in and said: Well, I  
24 didn't see him there, but everybody had masks on, even though  
12:11PM 25 that's not the story everybody else tells.

1 But he's getting a downward departure too, but  
2 he's got to make up some reason for why he can't do what the  
3 government expects him to. I'm sorry. I just can't do it.  
4 Everybody had masks on.

12:12PM

5 But the fact is he was there and there a  
6 substantial amount of time talking to people and hearing  
7 people's names, seeing people and I'll submit to you, seeing  
8 people's faces. He says: Never I did see Lee Roy. So why the  
9 difference?

12:12PM

10 So against that backdrop of all these folks that  
11 have all of these reasons to come in here and tell you that  
12 Lee Roy Villarreal was involved in this when he wasn't, where  
13 is the hard evidence? Where is the evidence? Where is this  
14 thing you can hold up and wave at me and say: Mr. Morris, what  
15 about this? What about this piece of evidence? What about a  
16 wiretap?

12:13PM

17 Ms. Cogliano said he's not on any of the wiretaps  
18 having to do with drug cases. The FBI has wiretap capability,  
19 too. Nothing identified on any conversation that would in any  
20 way implicate Lee Roy Villarreal in this kidnapping.

12:13PM

21 But, you know, that's sort of maybe casting, like  
22 fishing. You might catch something. You might not. But let's  
23 talk about some of the things they could have done that would  
24 have helped if these people are telling the truth.

12:13PM

25 Tetin says: Well, we had a car, a blue Malibu, I

1 believe it was. Chevrolet Malibu. Lee Roy was upset about it  
2 because that car was legitimately registered, and he was upset  
3 because he didn't want it involved.

4 Do you think the FBI has the capability if they  
12:14PM 5 so choose to go the Department of Motor Vehicles, run  
6 Lee Roy Villarreal's name and find out if he or anybody ever  
7 associated with him owned a blue Malibu? Where is it?

8 Where's that evidence? Or have they done that,  
9 and we just don't have it? Black Camaro. Do you think they  
12:14PM 10 have the capability to do the same to look for that black  
11 Camaro?

12 Undercover agents. Do you think they have the  
13 capability to send somebody in there that Lee Roy knows and  
14 wire it up and get him to talking, to get him to ask about  
12:14PM 15 kidnapping. See if Lee Roy will talk about it.

16 Pole cameras. Put a camera up on a pole outside  
17 his business and see who comes and goes, see if there's any  
18 evidence there. That's the kind of thing we're talking about  
19 with hard evidence.

12:15PM 20 And one thing in particular that just is  
21 confounding. After they say they start getting information  
22 that Lee Roy is involved, Blackberry is still in business.  
23 They're gone now, but at the time they weren't.

24 Cell phone. You heard the testimony about cell  
12:15PM 25 phone triangulation; how they can get somebody's cell phone,

1 get the data from the cell phone company, see which towers  
2 their phone was pinging into. They don't have to be making  
3 calls, just pinging into those towers and they can track where  
4 people were.

12:15PM

5 Trosper Road is 20 miles from McAllen, according  
6 to some of the testimony.

7 Where is that cell tower data that the FBI could  
8 have gotten with a subpoena that shows Lee Roy Villarreal  
9 moving around to all these places having to do with the  
10 kidnapping? Where is it? How much does that take? How much  
11 does that take?

12:15PM

12 There are some things that you can't consider, at  
13 least not just for the sheer purpose of deciding whether to  
14 convict, and that's the emotion involved or sympathy.

12:16PM

15 You can't consider that what the government is,  
16 in fact, doing here is taking a father away from his family,  
17 three little boys grow up without a father.

18 That's not evidence you can consider to say,  
19 well, let's let him go. But it is evidence you can consider to  
20 tell you how important your job is. It's evidence you can  
21 consider to determine what proof beyond a reasonable doubt  
22 means to you.

12:16PM

23 Other things that perhaps you can't consider just  
24 on the guilt or innocence question is you saw people come in  
25 here, as Ms. Cogliano said, who corrected her.

12:17PM

1 I didn't kill 50 people. I killed 150. I was  
2 the guy who put the cartels together so that they could work  
3 more efficiently. I was the guy who Benicio, you know, he  
4 wanted me to kill somebody, I would kill somebody.

12:17PM

5 And on and on and on. Those are the people that  
6 the government is letting go in this case. Those are the  
7 people that they're not charging. Those are the people that  
8 they're cutting their sentence. Those are the people that  
9 they're reducing what they're charged with in order to

12:17PM

10 prosecute Lee Roy, the father of three, successful  
11 businessperson. Somebody who takes care of his family.  
12 Somebody without a criminal history. Someone whom there's  
13 nothing about his life to this point that would indicate that  
14 he has any intention of engaging in the type of conduct that  
15 he's charged with here.

12:18PM

16 So how do you consider that? Well, it's the same  
17 thing. It's proof beyond a reasonable doubt. Government, if  
18 you're going to make that choice, then you need to bring us  
19 something. You need to bring us the hard evidence so that we  
20 don't have to rely on these people that are unreliable.

12:18PM

21 But perhaps the most important part of the charge  
22 is the part on proof beyond a reasonable doubt. And as  
23 Ms. Cogliano said, you're the last defense. The reason we have  
24 a jury system is because you're not biased.

12:18PM

25 We did our best to make sure that we selected

1 people that weren't. You're not connected with the government.  
2 You're not getting a benefit from the government or from us.  
3 You are here using your common sense to listen to this evidence  
4 and make a determination about whether this evidence feels to  
5 you like proof beyond a reasonable doubt.

6 Whether this is a type of evidence that would  
7 allow you to convict someone, like I said, potentially take him  
8 away from his family and you'd feel good about it. You would  
9 feel like you followed the law and you brought to bear every  
10 resource that you had to make that decision.

11 Don't -- aren't you entitled in doing this job to  
12 have everything that the government can bring? Aren't you  
13 entitled to that hard evidence? A reasonable doubt is a doubt  
14 based upon reason and common sense after careful and impartial  
15 consideration of all the evidence in the case.

16 Proof beyond a reasonable doubt, therefore, is  
17 proof of such convincing character that you would be willing to  
18 rely and act upon it without hesitation in the most important  
19 of your own affairs.

20 That's what protects citizens from being  
21 unlawfully or improperly convicted. That's what protects us.  
22 That's what protects Lee Roy Villarreal from being convicted  
23 when he's not guilty. That's what protects you from not being  
24 convicted if you're not guilty.

25 We've all heard of people who got convicted, went



1 to the penitentiary and then years later, we found out they  
2 weren't guilty. Every juror that -- I'll suggest to you that  
3 every juror on those cases didn't set out to convict an  
4 innocent person.

12:20PM 5 It happened, I'm going to suggest to you, because  
6 they didn't apply this standard, because they didn't hold the  
7 government to their burden of proof, because they listened to  
8 the argument that the defense should have done something and  
9 we're asked to ignore the fact that the government didn't do  
10 all they could do.

11 So that's how this protects you. It protects you  
12 from doing the wrong thing. Proof beyond a reasonable doubt is  
13 the standard the government has to meet. Now, what does that  
14 mean?

12:21PM 15 How much time do I have, Your Honor?

16 THE COURT: You have 17 minutes.

17 MR. MORRIS: Thank you.

18 What does that mean? What is the most important  
19 of your day-to-day decisions? Well, think of one. And I'll  
12:21PM 20 think of one that's not just hypothetical with me.

21 Let's assume that a family member of yours is  
22 diagnosed by a team of doctors with some serious illness.  
23 That's going to require a lot of time-consuming, dangerous,  
24 expensive treatment.

12:21PM 25 And somewhere you've got seven or eight doctors

1 saying this, but somewhere in the middle of deciding what to  
2 do, you discover that all of these doctors have a financial  
3 interest in the treatment of this disease.

4 They own stock in the pharmaceutical company,  
12:22PM 5 something like that. What do you start thinking at that time?  
6 You can see how that would influence somebody. Don't I need to  
7 look a little deeper and see if they've done the right thing in  
8 this case?

9 So you go to those doctors and you say: Doctors,  
12:22PM 10 I'd like some hard evidence. I'd like to see the test results.  
11 I've been on the internet. I know the tests that you can run  
12 to determine whether someone has this condition. Let's see it.

13 And the doctors say: Hey, trust us. We're  
14 doctors, and there are seven of us here. You think we're all  
12:23PM 15 wrong?

16 Well, do all seven of you own stock in this  
17 company?

18 Yeah.

19 Well, I don't want to offend you, Doctor, but I'd  
12:23PM 20 like to see some hard evidence.

21 Well, what do you think hard evidence is?

22 Well, hard evidence would be some sort of test  
23 result, something that's indisputable, something that you've  
24 gone out and caused to be created that I can look at that  
12:23PM 25 supports what you're saying.

1 Well, we did run some tests, but we're not --  
2 we're just not going to let you see those.

3 Well, did you run this test that I read about on  
4 the internet that's supposedly really good?

12:23PM

5 No, no, we didn't run that one.

6 Well, are you capable of running that one?

7 Yeah, we run it all the time; but we decided not  
8 to in your case.

9 What are you going to do in that circumstance?

12:23PM

10 Is that one of your most important decisions in your own  
11 affairs? What are you going to do about that diagnosis? What  
12 are you going to do under those circumstances?

13 Aren't you going to say, I'm sorry, Doctor. I  
14 don't want to offend you, but I think I need to get a second  
15 opinion here?

12:24PM

16 And you go out and you find a doctor that will do  
17 those things, that will give you that hard evidence.

18 The difference here is we don't have that  
19 opportunity. We can't go back now and get that cell phone  
20 tower data. We can't go back and get the DMV evidence.

12:24PM

21 The government can. You saw how quickly they got  
22 the food stamp application, and they got the tax return. We  
23 can't do that. The government should have done it then. They  
24 didn't. They haven't tried to do it now.

12:24PM

25 That's what this charge is talking about as far

1 as your most important day-to-day decisions. It's not magic.  
2 It's not high-falutin' legal language. It's simply just what  
3 it says.

4 What would cause -- allow you to act without  
12:25PM 5 hesitation, without hesitation in your most important  
6 day-to-day decisions? Can you say -- in this case, can you say  
7 from what we know about these folks that I had up on the board  
8 here a moment ago, that you can act without hesitation and say,  
9 yeah, we know who they are. We know what they've done. We  
12:25PM 10 know what they are getting for saying what they're saying, but  
11 I'm not going to hesitate? And the fact that there's more than  
12 one of them, I'm still not going to hesitate.

13 And the fact that they were all together at some  
14 point except for Fernando, all together at some point in the  
12:26PM 15 same institution talking about this stuff and Roel got visited  
16 multiple times by a lawyer that Fiscal sent to him, that  
17 doesn't bother me. I'm going to act without hesitation. They  
18 must be telling the truth.

19 Must be telling the truth why? What good is the  
12:26PM 20 truth going to do them? It's not going to cut their time. The  
21 only thing that's going to help them is to put Lee Roy in this  
22 case. That is what this charge means.

23 Would you hesitate? Not stop, not take another  
24 day to think about it, but would you hesitate in acting upon  
12:26PM 25 this evidence as if it were one of your most important

1 day-to-day decisions?

2 And the stakes are high. Again, you can't  
3 consider the sympathy. But we talked about -- some of you did  
4 on voir dire -- about what happens if someone is convicted,  
12:27PM 5 their families. The stakes are high, so you don't take this  
6 lightly.

7 And I'm going to suggest to you that in this case  
8 because of the discrepancies that you will remember in the  
9 testimony of these four people, because two people that were  
12:27PM 10 there couldn't identify Lee Roy, because of the overwhelming  
11 incentive that all these folks had to come in and name Lee Roy  
12 and the overwhelming evidence of opportunity to get their  
13 statements together, that you simply cannot act without  
14 hesitation, without hard evidence that the government, with all  
12:27PM 15 their resources and all the money that they asked for and got  
16 on this case and all the things you've heard that they've done  
17 in other cases, didn't bring to you.

18 And I ask you to acquit on all three for those  
19 very reasons.

12:28PM 20 Thank you.

21 THE COURT: Thank you, Mr. Morris.

22 Mr. Alaniz, you want to close for us?

23 MR. ALANIZ: Yes, Your Honor. Can I get 20 minutes?  
24 That's all I need.

12:28PM 25 THE COURT: Pardon?

1 MR. ALANIZ: 20 minutes, and can I get a two-minute  
2 warning? I might finisher earlier.

3 Thank you, Your Honor.

4 What I want to do in hopefully less than 20  
12:28PM 5 minutes is just kind of summarize, and kind of summarize the  
6 defendant's argument about why you should acquit him. And it  
7 comes down to two different things.

8 One thing is, look. There's no hard evidence.  
9 And the other is simple. You know, the government's witnesses,  
12:28PM 10 they're all liars.

11 Those are the two arguments that they're making,  
12 and I want to kind of touch on no hard evidence because I think  
13 it's the easier one to deal with.

14 It's common sense when there's no hard evidence  
12:28PM 15 in certain cases. The vast majority of cases that prosecutors  
16 prosecute in this country are going to be historical cases.  
17 Historical cases are cases where the crime has already been  
18 committed by the time FBI agents or HPD or whoever is  
19 investigating. The crime is over. It's done.

12:29PM 20 This one is a little more difficult because when  
21 this happened, there were no suspects. They didn't really  
22 learn basically what happened until months later when  
23 Gerardo Villarreal was arrested and he began cooperating.

24 So by the time that they had some evidence, what  
12:29PM 25 are you going to find on a surveillance tape? What is a pole

1 camera going to do after the crime, you know, has been  
2 committed? I mean, they did what they could.

3 I mean, they got Gerardo Villarreal's cell phone  
4 when he was arrested in June or a couple of two or three months  
12:29PM 5 after the kidnapping and they went through it and they found  
6 some phone numbers.

7 And he tells them, look, this phone number  
8 belongs to so-and-so and so-and-so. And they went and got the  
9 records and they did get cell site information. And they were  
12:29PM 10 able to tie some phones to some people.

11 But there was no phone that we could tie to this  
12 defendant. And if you think about this in a sense, let's say  
13 that they had a phone and Gerardo says, that phone number here,  
14 that's Lee Roy Villarreal's number.

12:30PM 15 And then they go and get the cell site records  
16 that shows that that number was in and around the area. That  
17 still doesn't prove he's there. It just proves that a phone,  
18 that the cooperator says belongs to him.

19 So it's just kind of the thing that what they're  
12:30PM 20 doing with no hard evidence, focus on things that don't exist.  
21 Don't look at the facts of the case. That's what that argument  
22 is to you.

23 Historical investigations are driven by  
24 witnesses, by eyewitnesses to the crime. Obviously the  
12:30PM 25 government would love to have ten nuns who saw the kidnapping

1 and can come and testify that he was the one that did it.

2 But these crimes are not committed by good  
3 people. I mean, you know, it's -- I was born right across the  
4 river a little bit up north, North up the river from where all  
12:31PM 5 this happened. And the stuff that's going on down there, it's  
6 horrible.

7 And you saw it basically live in here. And so  
8 what do you expect as witnesses on a case where these people  
9 are moving tons of drugs into the U.S. Drugs are stolen from  
12:31PM 10 them in the U.S. They can't call the PD and say -- or the FBI  
11 and report the crime.

12 The only thing that they do is they use violence  
13 to get what they want. And so people come into this country  
14 looking for people to kidnap for one purpose. It's to kill  
12:31PM 15 them.

16 What type of people get involved in that type of  
17 crime? The people that you saw testify before you. Those are  
18 the people that commit these crimes. Those are the people who  
19 are in the best position to tell you what happened because they  
12:32PM 20 were present. They were there.

21 They saw -- they saw and can tell you what  
22 happened, how they did it, who did it, who participated.  
23 Everything. That's the people who can give you the evidence  
24 that you need to find this defendant guilty beyond a reasonable  
12:32PM 25 doubt.



1           Aside from the hard evidence, let me talk briefly  
2 about the government's witnesses or lying defense. And I want  
3 to talk about three different aspects of that and why we  
4 believe that they're credible and believable witnesses.

12:32PM

5           First of all, like I was just saying a minute  
6 ago, these cooperating defendants were present during the  
7 commission of the crime. That's why they have firsthand  
8 knowledge and are able to tell you what happened. That's why  
9 they're believable.

12:32PM

10           Second part of their argument in terms of  
11 believability or credibility of witnesses is this idea that if  
12 you have testimony given with the potential benefit somewhere  
13 down the line, that that automatically equals a lie.

12:33PM

14           That's what they're saying. Because they're  
15 testifying and they have a potential benefit to their sentence  
16 later on, that means they're lying.

12:33PM

17           That's too simple of an analysis, especially when  
18 it comes to dealing with how human beings react to different  
19 things, how they testify, how whether they're truthful or not,  
20 thing of that nature.

21           And when I look at that and I say, okay.  
22 Testimony plus a potential benefit in the future equals a lie,  
23 why is that -- does that not make sense here? And I can give  
24 you a couple of examples.

12:33PM

25           That equation maybe is possible, I guess, because

1 anything is possible. But the defendant could say, for  
2 example, you know, the reason that they're lying is not just  
3 because they're getting a benefit, but he could say how in the  
4 world could that be true when I don't know these people? I  
5 don't know them. They don't know me.

6 Well, that's not the case here. He knew, if not  
7 all of them, but most of them, because he met them through his  
8 brother and he met them in school and things of that nature.  
9 So he can't take that route that, well, these people basically,  
10 I don't know them, so obviously I can't be involved in this  
11 crime.

12 A second possible explanation would be, well, the  
13 reason that they're lying is not just because of the benefit  
14 portion of the testimony, but because they have something  
15 against me. Maybe I upset them at some point. Maybe I stole  
16 money from them, maybe I stole -- whatever it was -- whatever  
17 it is. But in this case the evidence is not there, so that  
18 can't be a reason why they're lying.

19 Another possible explanation as to why they're  
20 lying would be, well, maybe they must be lying because, you  
21 know, why would I get involved as Lee Roy Villarreal, why I  
22 would get involved in trying to pick up and kidnap and murder  
23 somebody because somebody stole drugs that I have no  
24 association with.

25 That was somebody else's drugs. Well, the

1 problem is that the evidence is otherwise because that cocaine  
2 belonged to him and his brother. That's why he got involved.

3 So again, my argument to you today is testimony  
4 plus potential benefit equals a lie is too simplistic; and that  
12:35PM 5 does not fit the case here.

6 Lastly, regarding the witnesses are lying is that  
7 the evidence -- I'm sorry. Let me go back for one second  
8 because I forgot one matter about testimony plus potential  
9 benefit equals a lie.

12:35PM 10 When you look at the evidence here and how it  
11 developed, how it began, and how it progressed over a number of  
12 years, you start with Gerardo Villarreal being the first one  
13 who gets arrested and he tries to get a benefit by cooperating  
14 with the government.

12:36PM 15 He tells the agents information that they're able  
16 to verify because at the time that Gerardo Villarreal is picked  
17 up and taken from his family at his cousin's house, they have  
18 no idea where he was taken to.

19 But Gerardo Villarreal, when he's cooperating,  
12:36PM 20 tells them, we took him -- at some point he says, I took him in  
21 a white truck and took him to this Trooper ranch residence.

22 That was verified and it came to be true.  
23 Because not only did he say that, but other individuals who  
24 later on were implicated said the same thing.

12:36PM 25 So Gerardo Villarreal is telling the agents a

1 truth even though he's trying to get a benefit. So this idea  
2 that only lies come out of someone's mouth when they have a  
3 benefit in the future is simply not reasonable.

4 And I could go down the line with every single  
12:37PM 5 cooperator, whether it's Gerardo Villarreal, whether it's  
6 Roel Garza, whether it's Orlando Hernandez.

7 Orlando Hernandez testified that the reason that  
8 they found that the black car and the white truck that were  
9 used in picking up and transporting the victim, he gave  
12:37PM 10 information as to where those vehicles were and who was the  
11 owner or users of those vehicles.

12 So every step along the way of this  
13 investigation, cooperators who were getting or expecting a  
14 benefit in the end gave the agents and gave law enforcement  
12:37PM 15 information that turned out to be true. Every step of the way.

16 So this idea that you should automatically  
17 discount everything they say because they're going to get a  
18 benefit at some point is simply not reasonable.

19 And in the end in terms of the investigation, the  
12:37PM 20 investigation starts with nothing. With nothing. Because no  
21 one knew who picked up Mr. Guerrero. Ended up basically  
22 arresting and prosecuting maybe 10, 12, 13, 15, people.

23 And so the defense arguments, obviously they  
24 can't say this didn't happen. Everything happened. Everything  
12:38PM 25 is correct except when the evidence -- and the evidence goes in

1 his direction.

2 You know, when Panochitas, Saenz-Tamez says: I  
3 kill people, it's the truth.

4 When Benicio Lopez says, I'm a horrible person  
12:38PM 5 and whatever, I kill people, that's the truth.

6 Everything is the truth. But the minute that  
7 that truth starts going in his direction, that's where it  
8 stops. Because obviously Mr. Villarreal is, according to them,  
9 is not involved.

12:38PM 10 And I want to talk to you real briefly about what  
11 struck me during the testimony of both sides. And we have here  
12 basically two portraits of a man. Two portraits of  
13 Lee Roy Villarreal. And I want to lay out to you these two  
14 portraits.

12:39PM 15 Let's talk about the portrait that the defendant  
16 and his witnesses want to portray to you. And that's the high  
17 school dropout, who basically is a business prodigy at the age  
18 of 22 is able to amass \$45,000 in cash that he says he earned  
19 from the profits of some mechanic shop.

12:39PM 20 He uses his business acumen to basically make a  
21 lot of money, but initially says, well, you know what, I  
22 couldn't have it in a bank because I didn't really know how to  
23 use banks.

24 But two years later, his wife, as they get  
12:39PM 25 stopped going south to Mexico says, well, you know, I had a

1 bankroll of \$5,000 dollars that I didn't even know it was --  
2 was not aware that it was in my purse because I was going to  
3 deposit it in the bank.

4 At the age of 24, 25, he moves from  
12:40PM 5 Rio Grande City and goes to McAllen and opens up this -- back  
6 then it's called R&H Collision, later became Rhino Collision.

7 So magically because of his business acumen, he  
8 just goes from Rio Grande City to McAllen and opens up this  
9 business that is very profitable according to him and his  
12:40PM 10 witnesses.

11 Because he's able to do a lot of things that most  
12 of us can't do; and whether you buy or lease -- you know, he  
13 likes cars. Whether it's a BMW that he's driving when he's  
14 going to Austin. Whether it's the Porsche 911 when he's in  
12:40PM 15 California and gets arrested. Whether it's that house that he  
16 buys when he's 25 years old that I think cost more than a  
17 quarter million dollars. Rolexes. Trips to Cancun, trips to  
18 California on a regular basis.

19 That's the portrait that the defendant wants you  
12:40PM 20 to see. The portrait that we believe that we showed you was  
21 very different. That's basically the portrait of a drug  
22 trafficker. Mr. Villarreal is a high school dropout. During  
23 that time, his brother is moving up in the ranks at the Gulf  
24 Cartel making lots of money.

12:41PM 25 Mr. Villarreal gets involved in drug trafficking.

1 He makes lots of money by drug trafficking. That leads him to  
2 the kidnapping and leads him to the expensive lifestyle that he  
3 has. That's the Lee Roy Villarreal that we presented to you  
4 today.

12:41PM 5 And I want to leave you with this quote. The  
6 late John Wooden, who was a UCLA basketball coach once said,  
7 "The true character of a man is revealed by what he does when  
8 no one is watching."

9 In this case, the real Lee Roy Villarreal is that  
12:42PM 10 person who is revealed in that tape recording when he believes  
11 law enforcement is not listening.

12 Thank you.

13 THE COURT: Thank you, Mr. Alaniz.

14 Ladies and gentlemen of the jury, you have heard  
12:42PM 15 my closing instructions. You've heard the arguments of  
16 counsel. It's time for y'all to begin the hard work of  
17 deliberations.

18 You've been operating on Central Judge Time for  
19 the last two weeks, and everything shifts now. We're going to  
12:42PM 20 operate on Central Jury Time. So you are now the people in  
21 charge of what you're doing.

22 So I'm going to excuse y'all to retire to the  
23 jury room, I think your lunch is there, and to begin your  
24 deliberations.

12:42PM 25 We will bring in the exhibits and bring in the

1 written instructions and definitions and everything for y'all  
2 to use.

3 Thank you for your attention, and you're free to  
4 retire.

12:43PM

5 THE COURTROOM SECURITY OFFICER: All rise for the jury.

6 (The jury exited the courtroom.)

7 THE COURT: Mr. [REDACTED], you and Ms. [REDACTED], can y'all step  
8 over here in front of Mr. Alaniz for a minute?

9 Y'all can be seated. Just come right here. I  
10 have good news and bad news for you.

12:43PM

11 THE JUROR: Okay.

12 THE COURT: You have been our alternates.

13 THE JUROR: Okay.

14 THE COURT: And so you get to leave.

12:43PM

15 THE JUROR: Okay.

16 THE COURT: That's the good news. But there's a catch.  
17 You know you can't deal with government and not have a catch.

18 I'm going to keep you under the same  
19 instructions. You know, don't talk about the case, don't visit  
20 about it, don't read anything about it, don't do any  
21 independent research, all the instructions I've given you  
22 because during the deliberations if something were to happen to  
23 one of the jurors, I'm going to reach out and grab you and  
24 bring you back. So you're still under all these instructions  
25 and rules that I've given you before.

12:44PM



1                   So what I want you to do is give Rhonda the best  
2 phone number for you for the next 24 to 48 hours, whether it's  
3 your cell phone, your business phone, your home phone -- in  
4 this day and age, usually that's all the same phone -- so she  
5 can get ahold of you if she needs you.

6                   Assuming we don't need you, when the trial is  
7 over and the other jurors have delivered their verdict, Rhonda  
8 will call you and tell you what happened. And at that point  
9 you're no longer bound by my instructions.

10                  But give her your best phone number. You can go  
11 get your stuff and your lunch and take it with you and so y'all  
12 are excused.

13                  THE JUROR: Thank you.

14                  MR. MORRIS: Your Honor, may we have a moment at the  
15 bench?

16                  THE COURT: Wait until they...

17                         (Brief pause in the proceedings.)

18                  THE COURT: Okay. Yeah. Y'all can come up here.

19                  Before I let y'all break for lunch, when Rhonda  
20 comes back in, I want you to look at the exhibits, make sure  
21 only the exhibits that we've agreed are going back or that I've  
22 ruled are going back in some cases are just those and no other  
23 extraneous exhibits.

24                  And then let Rhonda know, give her your cell  
25 phone where you will be. I mean, I assume they're going to be

1 a while since they've got lunch and the exhibits and everything  
2 so...

3 MR. MORRIS: Your Honor, I am never sure when I need to  
4 make a Rule 29 motion, but I'm renewing my Rule 29 motion.

12:47PM

5 THE COURT: Okay. And I'm denying it.

6 Rhonda, I just told them they need to get with  
7 you on exhibits.

8 THE CASE MANAGER: Right.

9 THE COURT: I'm going to step off.

12:50PM

10 (Court is in recess.)

11 THE COURT: All right. Have both sides seen this note?

12 All right. I'm blaming both sides for this.

13 Both sides in closing told them they could have transcripts so  
14 I'm tempted to start off my reply to the note as: "I told you  
15 you shouldn't believe anything the lawyers said."

03:08PM

16 And the answer is "no," because we can't give  
17 them this.

18 MR. MORRIS: I told them how to do it correctly, which  
19 was to identify the parts you were in dispute about; and they  
20 didn't do that.

03:09PM

21 THE COURT: All right. Suggestions?

22 I am going to say: "I told you in the opening  
23 instructions that transcripts would not be available. If you  
24 have" -- and here is what I'm tempted to say. I'll let y'all  
25 weigh in.

03:09PM

1 "If you have a specific question about a portion  
2 of the transcript or the audio recording, ask that question.  
3 Don't believe what the lawyers told you."

4 Suggestions? I'm open.

03:09PM

5 MR. MORRIS: My understanding of the rule is if they  
6 identify a particular part of a witness's testimony that  
7 they're in dispute about, they can ask for that section to be  
8 read back.

9 Am I wrong about that?

03:09PM

10 MR. ALANIZ: I guess the issue for the government,  
11 Your Honor, is that they don't have Government's Exhibit 38,  
12 which is the actual audio recording.

13 THE COURT: Well, they don't have any of the testimony  
14 either.

03:10PM

15 MR. ALANIZ: Right.

16 THE COURT: It's all in the same boat.

17 MR. ALANIZ: Well, but the testimony obviously is -- I  
18 guess it's a different type of evidence because the actual  
19 recording, they listened to it and they saw a transcript of it.  
20 They haven't seen a transcript of the testimony of any witness.

03:10PM

21 So it would be hard for them to pinpoint or tell  
22 us what specific portion of that recording they're having  
23 difficulty with.

24 THE COURT: Why would that be any harder then telling  
25 them about oral testimony?

03:10PM

1 MR. ALANIZ: That's true. Anyway, that's our thoughts,  
2 Judge; but obviously whatever the Court wants to do.

3 THE COURT: All right. Let me play with this.

4 You see, we have the additional problem is we've  
03:11PM 5 been using two court reporters.

6 MS. COGLIANO: I didn't even think about that.

7 THE COURT: I thought about that the minute I heard one  
8 of y'all say --

9 MR. MORRIS: I have some thoughts on that other issue,  
03:12PM 10 too, we discussed, Your Honor.

11 (Brief pause in the proceedings.)

12 THE COURT: Do you want to discuss that other issue?

13 MR. MORRIS: We may have missed our opportunity; but  
14 what I was going to propose is you bring her up to the bench  
03:21PM 15 and say: "You didn't do what I said so now I'm going to make  
16 it an order; but if you do it again, I'm going to hold you in  
17 contempt."

18 MS. COGLIANO: I don't think she would dare.

19 THE COURT: Well, she may reappear.

03:22PM 20 (Off-the-record discussion.)

21 (Court is in recess.)

22 COURTROOM SECURITY OFFICER: All rise.

23 THE COURT: Have they seen the two notes, Rhonda?

24 THE CASE MANAGER: They have not.

05:24PM 25 THE COURT: All right. We have two notes, and I'll let

1 y'all see them.

2 One says: "We would like to see the portion of  
3 Hector Barrios-Hernandez's testimony that deals with the  
4 instructions he received from Michael Villarreal when sent to  
05:24PM 5 determine who stole the cocaine."

6 And the second note is: "We request the portion  
7 of the transcript from Dionicio Gutierrez that deals with the  
8 transaction of the cocaine deal with Lee Roy Villarreal at  
9 Ignite Motorsports."

05:25PM 10 I mean, this is going to be the first of many.  
11 You guys opened the barn door when you told them they could  
12 have transcripts. We're going to be here for a week.

13 Secondly, besides these two notes, they want to  
14 go home.

05:25PM 15 And here is what I suggest: I suggest we go  
16 ahead and let them go home, and then let's talk about what  
17 portions -- now, I have the first portion, I think, that's  
18 responsive, but I want everybody to agree on it, that this is  
19 the portion they're looking for to Note 1.

05:26PM 20 And then we need to decide -- this is probably  
21 more than they asked for so we may want to ratchet it back.

22 And then, you know, I've got Kathy and Lanie both  
23 looking for, you know, Note 3. But this is going to be a real  
24 problem because we have two different court reporters.

05:26PM 25 And you will see in the portion I'm going to give

1 you on Mr. Barrios's testimony that it's right when we quit for  
2 the day. And when it goes on to the next morning, you know,  
3 it's a whole different deal.

4 So here is what I -- unless somebody has an  
05:26PM 5 objection, they want to go home. I'm going to bring them in,  
6 tell them that they can go home; you know, instruct them.

7 But I am going to talk to them about this and  
8 tell them this isn't like a book we can go look this up. They  
9 need to understand the process of us doing this and then I'm  
05:27PM 10 going to let them go and then hopefully when they come back in  
11 the morning, we will have the third one and we'll have agreed  
12 on the second one.

13 Any objection to that plan?

14 MR. ALANIZ: Not from the government, Your Honor.

05:27PM 15 MR. MORRIS: No objection.

16 THE COURT: All right. Would you ask them to join us?

17 (Brief pause in the proceedings.)

18 THE COURTROOM SECURITY OFFICER: All rise for the jury.

19 (The jury entered the courtroom.)

05:28PM 20 THE COURT: All right, ladies and gentlemen. Be  
21 seated.

22 I have been informed that y'all wish to retire  
23 for the day, which is okay. Y'all have been working hard.

24 I need y'all to be back at 8:45 in the morning so  
05:29PM 25 we can start promptly at 9:00. What I'll do is I actually have

1 a proceeding I'm going to have at 8:30, but it should be over  
2 by 9:00.

3 I'm going to bring you in, count heads, make sure  
4 everybody is here; and then y'all can start off again.

05:29PM

5 Let me talk to you for a minute about the note  
6 y'all sent and the other two notes you sent and the answer I  
7 gave you.

05:29PM

8 Remember at the first of the trial I said, "We  
9 don't have these transcripts," and we don't with regard to  
10 testimony from the witnesses.

11 The court reporters take it down, but it's not  
12 like it's in real English. It's in court reporter English; and  
13 maybe after the trial, we'll show you what that looks like; but  
14 it doesn't look like anything you've ever seen.

05:29PM

15 And so then not only do we have to -- well, first  
16 we have to find the court reporter, and we've had two different  
17 court reporters during the trial; then we have to interpret  
18 your note to make sure we're looking for the right thing; and  
19 then we have to find it and then they have to translate it into  
20 English.

05:30PM

21 So to the extent we can accommodate you, we will;  
22 but there may be some times when we can't depending on what the  
23 question is.

05:30PM

24 So that's why I emphasize at the beginning of the  
25 trial that you need to rely on your memory of the testimony.

1                   Having said that, y'all are free to go. Remember  
2 my instructions, and be back at 8:45 in the morning.

3                   Thank y'all.

4                   THE COURTROOM SECURITY OFFICER: All rise for the jury.

05:30PM

5                   (The jury exited the courtroom.)

6                   THE COURT: Here are the two notes if you want to look  
7 at them. Here is the testimony; but as I said, I think it's  
8 broader than what they asked for; and I think it's our duty  
9 just to answer the question they ask and both of y'all can take  
10 a look at that.

05:31PM

11                   (Brief pause in the proceedings.)

12                   THE COURT: Okay. Suggestions on reading the whole  
13 thing, reading relevant portions?

14                   MR. MORRIS: Relevant portions, Your Honor; and as you  
15 pointed out, it's more than what was asked for.

05:36PM

16                   Looks like it starts on Page 2, Line 13.

17                   THE COURT: Starting there?

18                   MR. MORRIS: May I mark on this?

19                   THE COURT: Yeah. Go ahead and mark on it or maybe I  
20 shouldn't.

05:36PM

21                   (Off-the record discussion.)

22                   MR. MORRIS: Start with the first. It ends right  
23 before the second circle.

24                   THE COURT: Okay. Just so we get this clear on the  
25 record, on our draft reading, parties have agreed the relevant

05:38PM



1 part starts on Page 2, Line 13, going through Page 3 -- okay.  
2 Wait a minute, guys. You circled 17, but 17 is a question.

3 MR. MORRIS: Well, as I said --

4 THE COURT: Do we want the answer?

05:38PM

5 MR. MORRIS: No. What I said was I circled where it  
6 stops right above.

7 THE COURT: Okay. So Page 3, Line 16.

8 And both sides agree with that?

9 MR. ALANIZ: Yes, Your Honor.

05:38PM

10 THE COURT: All right. Tomorrow morning we'll start  
11 with that.

12 All right. Then this excerpt for Note 3 is a  
13 little longer. Let me show you that one.

14 (Brief pause in the proceedings.)

05:45PM

15 MS. MACDONALD: We might have an agreement, Your Honor.

16 THE COURT: Okay.

17 MS. MACDONALD: I guess for the record beginning  
18 Page 1, Line 23; ending Page 7, Line 9. I've marked them for  
19 the Court.

05:45PM

20 THE COURT: So it's actually beginning Line 24 on  
21 Page 1, because 23 is an answer of the prior question.

22 MS. MACDONALD: Oh, thank you.

23 THE COURT: Ending with the answer on Page 7, Line 9.

24 Ms. Cogliano, and that's an agreement y'all have  
25 reached?

05:46PM

1 MS. COGLIANO: Yes, Judge.

2 THE COURT: Okay. All right. Now, let me ask one  
3 other thing.

05:46PM

4 In the normal scheme of things, when somebody  
5 usually asks something read back, the court reporter does it.  
6 Here we have two different court reporters. Would you like me  
7 to read it? Would you like the court reporter who is here to  
8 read it?

05:46PM

9 MR. MORRIS: I'm comfortable with the court reporter  
10 who is here reading both.

11 MS. MACDONALD: So the procedure is they will come into  
12 the room, and we all read it out loud?

05:46PM

13 THE COURT: Yes. I'll have the court reporter read it;  
14 and she's just going to say: "Question," "answer," and read  
15 it.

16 MS. MACDONALD: No objection to the court reporter  
17 reading it.

05:46PM

18 THE COURT: All right. I figured after you heard me  
19 read those closing instructions, you would not want me to read  
20 anything. All right.

21 (Brief pause in the proceedings.)

22 THE COURT: All right. I'm doing two re-arraignments  
23 in the morning at 8:30, so y'all just be here ready to go at  
24 9:00 and we'll be fine.

05:47PM

25 MS. MIRO: Yes, Your Honor.

1 MS. MACDONALD: Yes, Your Honor.

2 (The proceedings were adjourned.)

3 \* \* \* \*

4 REPORTER'S CERTIFICATE

5 I, Lanie M. Smith, CSR, RMR, CRR, Official  
6 Court Reporter, United States District Court, Southern District  
7 of Texas, do hereby certify that the foregoing is a true and  
8 correct transcript, to the best of my ability and  
9 understanding, from the record of the proceedings in the  
10 above-entitled and numbered matter.

11 /s/ Lanie M. Smith  
12 Official Court Reporter  
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<b>\$</b>	<b>2007</b> <sup>[1]</sup> - 13:20 <b>2009</b> <sup>[2]</sup> - 13:18, 13:23 <b>2010</b> <sup>[3]</sup> - 39:19, 77:10, 90:5 <b>2011</b> <sup>[51]</sup> - 8:23, 9:2, 9:4, 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20, 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25, 26:2, 26:5, 26:7, 26:9, 26:13, 26:16, 26:19, 26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:14, 27:16, 27:19, 27:21, 27:24, 39:19, 77:9, 77:11, 79:2, 79:11, 88:11, 90:8, 96:21, 102:18, 109:12, 109:15 <b>2012</b> <sup>[6]</sup> - 39:10, 52:8, 90:9, 90:23, 96:21, 110:21 <b>2013</b> <sup>[11]</sup> - 41:22, 43:18, 65:20, 68:18, 90:16, 90:17, 90:21, 104:19, 109:16, 110:20, 121:15 <b>2014</b> <sup>[5]</sup> - 60:7, 65:18, 109:16, 123:3, 123:18 <b>2015</b> <sup>[2]</sup> - 70:18, 71:3 <b>2016</b> <sup>[5]</sup> - 8:24, 43:24, 46:1, 46:2 <b>2017</b> <sup>[2]</sup> - 112:7, 121:24 <b>2020</b> <sup>[1]</sup> - 71:3 <b>2022</b> <sup>[2]</sup> - 1:7, 4:3 <b>2025</b> <sup>[1]</sup> - 79:1 <b>206</b> <sup>[1]</sup> - 1:20 <b>20s</b> <sup>[1]</sup> - 109:21 <b>21</b> <sup>[2]</sup> - 18:6, 26:7 <b>22</b> <sup>[8]</sup> - 1:7, 4:3, 26:9, 45:19, 69:17, 69:21, 81:7, 141:18 <b>22-year-old</b> <sup>[1]</sup> - 109:19 <b>2202</b> <sup>[1]</sup> - 1:23 <b>23</b> <sup>[3]</sup> - 26:11, 153:18, 153:21 <b>2300</b> <sup>[1]</sup> - 1:16 <b>24</b> <sup>[9]</sup> - 26:13, 45:20, 45:22, 45:24, 119:4, 119:8, 142:4, 145:2, 153:20 <b>25</b> <sup>[4]</sup> - 26:16, 119:8, 142:4, 142:16 <b>25-year-old</b> <sup>[1]</sup> - 119:5 <b>250</b> <sup>[2]</sup> - 46:15, 58:4 <b>25th</b> <sup>[1]</sup> - 79:6 <b>26</b> <sup>[1]</sup> - 26:19 <b>26th</b> <sup>[5]</sup> - 73:14, 73:23, 114:4, 118:15, 118:20 <b>27</b> <sup>[1]</sup> - 26:21 <b>28</b> <sup>[22]</sup> - 9:2, 9:4, 26:2, 26:5, 26:7, 26:9, 26:13, 26:16, 26:19, 26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:14, 27:16, 27:19, 27:21, 27:24, 59:3 <b>28th</b> <sup>[5]</sup> - 26:11, 27:13, 55:6, 82:10, 118:11 <b>29</b> <sup>[3]</sup> - 27:2, 146:4	<b>313</b> <sup>[1]</sup> - 78:21 <b>32</b> <sup>[2]</sup> - 27:9, 85:6 <b>33</b> <sup>[1]</sup> - 27:13 <b>34</b> <sup>[1]</sup> - 27:16 <b>35</b> <sup>[1]</sup> - 27:19 <b>36</b> <sup>[1]</sup> - 27:21 <b>37</b> <sup>[3]</sup> - 3:5, 27:24, 81:8 <b>38</b> <sup>[1]</sup> - 147:11 <b>3rd</b> <sup>[2]</sup> - 71:11, 78:11
<b>/</b>	<b>4</b>	
<b>/s</b> <sup>[1]</sup> - 155:9	<b>4</b> <sup>[1]</sup> - 51:6 <b>4,000</b> <sup>[1]</sup> - 83:19 <b>40</b> <sup>[4]</sup> - 86:10, 99:20, 99:21, 99:22 <b>44</b> <sup>[3]</sup> - 43:9, 44:4, 83:23 <b>48</b> <sup>[1]</sup> - 145:2 <b>4:15-CR-00566-1</b> <sup>[1]</sup> - 1:4	
<b>1</b>	<b>5</b>	
<b>1</b> <sup>[26]</sup> - 4:7, 8:4, 8:21, 8:23, 9:2, 18:3, 18:4, 28:14, 35:24, 35:25, 36:4, 36:6, 36:10, 36:13, 36:15, 36:18, 39:6, 61:14, 65:17, 69:16, 75:7, 83:6, 149:19, 153:18, 153:21 <b>1,000</b> <sup>[1]</sup> - 83:13 <b>10</b> <sup>[3]</sup> - 5:5, 51:24, 140:22 <b>10-minute</b> <sup>[1]</sup> - 85:2 <b>100</b> <sup>[1]</sup> - 83:21 <b>1000</b> <sup>[1]</sup> - 1:16 <b>11</b> <sup>[12]</sup> - 24:7, 25:5, 60:8, 60:17, 73:10, 74:7, 74:11, 76:11, 76:19, 84:15, 88:4 <b>11,000</b> <sup>[1]</sup> - 72:4 <b>113</b> <sup>[1]</sup> - 3:6 <b>12</b> <sup>[3]</sup> - 25:8, 51:24, 140:22 <b>1201(a)(1)</b> <sup>[1]</sup> - 30:11 <b>1201(c)</b> <sup>[1]</sup> - 22:24 <b>12th</b> <sup>[1]</sup> - 1:19 <b>13</b> <sup>[4]</sup> - 25:11, 140:22, 152:16, 153:1 <b>134</b> <sup>[1]</sup> - 3:7 <b>135</b> <sup>[1]</sup> - 108:3 <b>14</b> <sup>[1]</sup> - 25:14 <b>144</b> <sup>[1]</sup> - 3:8 <b>15</b> <sup>[2]</sup> - 25:17, 140:22 <b>150</b> <sup>[3]</sup> - 86:11, 103:9, 127:1 <b>16</b> <sup>[2]</sup> - 25:20, 153:7 <b>17</b> <sup>[4]</sup> - 25:23, 129:16, 153:2 <b>18</b> <sup>[4]</sup> - 22:23, 25:25, 30:10, 30:14 <b>18th</b> <sup>[5]</sup> - 75:23, 76:2, 117:14, 117:15, 117:17 <b>19</b> <sup>[1]</sup> - 26:2	<b>5</b> <sup>[8]</sup> - 3:3, 19:12, 19:18, 36:20, 36:21, 51:6, 64:19, 83:21 <b>50</b> <sup>[5]</sup> - 86:10, 99:20, 99:21, 99:22, 127:1 <b>500</b> <sup>[6]</sup> - 36:21, 41:5, 41:7, 60:22, 67:23 <b>505</b> <sup>[1]</sup> - 1:19 <b>515</b> <sup>[1]</sup> - 2:6 <b>58</b> <sup>[4]</sup> - 59:20, 61:3, 61:7, 65:25 <b>5K-1</b> <sup>[1]</sup> - 111:25 <b>5K1</b> <sup>[1]</sup> - 115:20	
<b>2</b>	<b>6</b>	
<b>2</b> <sup>[19]</sup> - 8:25, 22:20, 22:21, 23:19, 23:23, 28:4, 30:14, 36:7, 37:1, 37:2, 37:6, 42:18, 51:19, 59:6, 63:19, 69:22, 80:20, 152:16, 153:1 <b>20</b> <sup>[11]</sup> - 5:16, 8:24, 26:5, 48:5, 48:6, 56:3, 81:7, 126:5, 133:23, 134:1, 134:4 <b>200</b> <sup>[2]</sup> - 68:5, 83:22 <b>2003</b> <sup>[1]</sup> - 60:6 <b>2004</b> <sup>[1]</sup> - 60:6	<b>608</b> <sup>[1]</sup> - 2:2	
	<b>7</b>	
	<b>7</b> <sup>[3]</sup> - 1:10, 153:18, 153:23 <b>70</b> <sup>[1]</sup> - 107:14 <b>70-plus</b> <sup>[1]</sup> - 93:20 <b>77002</b> <sup>[2]</sup> - 1:17, 2:7 <b>78701</b> <sup>[2]</sup> - 1:20, 2:2 <b>78703</b> <sup>[1]</sup> - 1:23	
	<b>8</b>	
	<b>8</b> <sup>[1]</sup> - 57:17 <b>8004</b> <sup>[1]</sup> - 2:6 <b>846</b> <sup>[1]</sup> - 18:7 <b>85</b> <sup>[1]</sup> - 3:6 <b>8:30</b> <sup>[2]</sup> - 151:1, 154:23 <b>8:45</b> <sup>[2]</sup> - 150:24, 152:2 <b>8th</b> <sup>[1]</sup> - 2:2	
	<b>9</b>	
	<b>9</b> <sup>[2]</sup> - 153:18, 153:23 <b>911</b> <sup>[2]</sup> - 46:2, 142:14	
	<b>3</b>	
	<b>3</b> <sup>[15]</sup> - 9:3, 30:7, 30:8, 32:2, 37:6, 37:10, 64:20, 66:15, 81:18, 81:22, 149:23, 153:1, 153:7, 153:12 <b>30</b> <sup>[2]</sup> - 27:4, 71:2 <b>300</b> <sup>[1]</sup> - 67:25 <b>31</b> <sup>[1]</sup> - 27:7	

**9:00** [3] - 150:25, 151:2, 154:24**9:04** [1] - 5:10**9mm** [1] - 55:25**A**

**a** [571] - 4:5, 4:17, 5:9, 5:17, 7:1, 7:6, 7:7, 7:10, 7:14, 7:16, 7:17, 7:18, 7:19, 7:23, 8:6, 8:11, 8:14, 8:15, 9:7, 9:8, 10:24, 10:25, 11:2, 11:14, 12:2, 12:4, 12:7, 12:12, 12:20, 13:8, 13:19, 14:5, 14:14, 14:24, 15:5, 15:14, 15:20, 16:2, 16:5, 16:8, 16:9, 16:11, 16:13, 16:15, 16:17, 16:18, 16:21, 16:25, 17:4, 17:6, 17:8, 17:12, 17:15, 18:7, 18:8, 18:11, 18:14, 18:16, 18:17, 19:2, 19:12, 19:13, 19:14, 19:18, 19:19, 19:20, 19:24, 20:4, 20:5, 20:7, 20:8, 20:9, 20:13, 20:15, 20:17, 21:4, 21:6, 21:8, 21:10, 21:11, 21:15, 22:3, 22:7, 22:8, 22:9, 22:10, 22:12, 22:14, 22:16, 22:18, 22:24, 23:4, 23:18, 24:1, 24:5, 24:9, 25:15, 26:3, 26:6, 26:8, 26:20, 27:3, 27:8, 27:15, 27:20, 28:14, 28:19, 28:22, 28:23, 29:1, 29:14, 29:17, 29:19, 29:20, 29:21, 29:25, 30:1, 30:3, 30:5, 30:11, 30:15, 30:18, 31:7, 32:5, 32:8, 32:11, 32:13, 32:22, 32:23, 32:25, 33:1, 33:4, 33:5, 33:12, 34:6, 34:21, 34:24, 35:4, 35:9, 35:12, 35:18, 35:19, 36:1, 36:4, 36:10, 36:11, 36:20, 36:23, 36:24, 36:25, 37:4, 37:16, 38:6, 38:9, 38:19, 38:22, 38:23, 38:24, 39:18, 39:21, 40:4, 40:6, 40:8, 40:9, 40:17, 41:2, 41:10, 42:7, 42:9, 42:13, 42:18, 43:5, 43:9, 43:17, 44:3, 44:10, 44:12, 44:13, 44:14, 44:17, 44:20, 44:25, 45:13, 45:20, 46:2, 46:3, 46:5, 46:6, 46:19, 46:23, 47:13, 47:22, 48:3, 49:4, 49:14, 51:9, 52:10, 52:12, 52:13, 52:16, 52:18, 52:19, 53:2, 53:4, 53:5, 53:20, 53:24, 54:13, 54:18, 55:23, 55:24, 55:25, 56:19, 56:20, 57:1, 57:7, 57:10, 57:14, 57:15, 58:13, 59:8, 60:4, 60:10, 60:12, 61:4, 61:6, 61:10, 62:1, 62:12, 62:13, 62:15, 62:17, 62:22, 63:15, 64:6, 64:18, 64:21, 65:1, 65:8, 65:10, 65:12, 65:19, 65:25, 66:10, 66:13, 66:19, 66:22, 67:2, 67:10, 67:11, 67:24, 68:3, 68:4, 68:5, 68:7, 68:8, 68:11, 68:24, 68:25, 69:1, 69:11, 69:17, 69:19, 69:21, 70:19, 71:7, 71:9, 71:11, 71:21, 72:10, 72:21, 72:22, 73:6, 73:23, 73:24, 74:10, 74:12, 74:13, 74:16, 74:20, 74:24, 75:14, 76:5, 76:14, 77:24, 78:4, 78:15, 78:18, 79:5, 79:12, 79:25, 80:2, 80:7, 80:15, 80:16, 81:8, 81:24, 82:1, 83:12, 84:1, 84:3, 84:5, 84:13, 84:16, 84:17, 85:1, 85:19, 85:23, 86:14, 86:16, 87:11, 87:19, 87:23, 88:9, 88:12, 88:13, 89:11, 89:13, 89:14, 89:17, 89:19, 90:1, 90:24, 91:2, 91:4, 91:7,

92:5, 92:25, 93:6, 93:14, 94:6, 94:10, 94:11, 94:16, 95:7, 95:11, 96:1, 97:16, 97:25, 98:19, 98:24, 99:1, 99:5, 99:7, 100:6, 100:9, 100:10, 100:12, 100:15, 100:17, 100:19, 100:25, 101:8, 101:23, 101:24, 102:17, 102:19, 103:7, 103:14, 104:4, 104:6, 104:12, 105:11, 105:13, 105:14, 106:11, 106:22, 107:3, 107:16, 108:9, 108:21, 108:25, 109:3, 109:19, 109:20, 110:3, 110:6, 110:10, 110:25, 111:1, 111:2, 111:17, 111:23, 111:24, 111:25, 112:3, 112:4, 112:5, 112:16, 113:3, 113:4, 113:11, 113:18, 113:20, 114:5, 114:12, 114:20, 115:20, 116:9, 116:13, 117:6, 117:12, 117:18, 118:2, 118:10, 118:14, 118:19, 119:4, 119:12, 119:17, 119:18, 120:4, 120:10, 120:12, 120:15, 121:2, 121:9, 121:14, 122:7, 122:9, 122:11, 122:12, 122:13, 122:18, 122:22, 123:5, 123:8, 124:1, 124:5, 124:15, 124:25, 125:7, 125:16, 126:8, 126:16, 126:17, 126:21, 127:12, 127:17, 127:22, 127:24, 128:2, 128:4, 128:5, 128:6, 128:13, 128:16, 129:12, 129:21, 129:22, 129:23, 130:2, 130:7, 131:14, 131:16, 132:8, 132:16, 134:1, 134:20, 134:25, 135:4, 135:12, 135:13, 135:17, 136:4, 136:8, 136:24, 137:5, 137:13, 137:15, 137:22, 137:24, 138:3, 138:12, 138:18, 139:4, 139:9, 139:11, 139:13, 139:21, 139:25, 140:1, 140:2, 140:13, 140:17, 141:4, 141:12, 141:17, 141:20, 141:22, 141:25, 142:11, 142:13, 142:16, 142:18, 142:21, 142:22, 143:6, 143:7, 144:8, 144:16, 144:17, 145:14, 146:1, 146:4, 147:1, 147:6, 147:18, 147:19, 147:20, 149:12, 149:23, 150:3, 150:8, 151:1, 151:5, 152:10, 153:2, 153:12, 155:6

**A** [5] - 23:20, 23:21, 23:22, 28:3, 37:9**a/k/a** [7] - 25:9, 27:10, 27:14, 27:17, 27:20, 114:22**abducted** [1] - 38:17**abet** [1] - 30:15**abetted** [2] - 32:25, 81:23**abetter** [1] - 81:23**abetting** [4] - 30:9, 32:11, 82:8, 82:14**ability** [3] - 12:9, 101:13, 155:6**able** [24] - 37:18, 45:24, 46:7, 46:21, 49:5, 50:16, 53:7, 56:20, 56:25, 57:4, 60:9, 60:20, 60:25, 65:2, 87:14, 93:4, 111:2, 111:9, 111:10, 135:10, 137:8, 139:15, 141:18, 142:11**about** [225] - 5:5, 5:18, 6:5, 6:7, 8:19, 8:22, 8:23, 9:1, 9:2, 9:4, 10:22, 11:22, 12:8, 12:16, 18:1, 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20, 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25, 26:2, 26:5, 26:7, 26:9, 26:11, 26:13, 26:16, 26:19,

26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:13, 27:16, 27:19, 27:21, 27:24, 32:20, 34:4, 38:4, 38:7, 39:7, 39:8, 39:10, 40:17, 42:7, 44:1, 44:6, 44:8, 44:24, 47:11, 47:19, 48:5, 48:11, 52:18, 56:3, 57:22, 57:23, 58:11, 58:12, 59:21, 59:23, 61:19, 62:19, 63:1, 63:7, 64:7, 64:16, 64:18, 64:20, 66:4, 66:8, 66:12, 66:17, 66:23, 67:3, 67:13, 67:15, 67:18, 67:19, 68:2, 68:6, 68:11, 68:13, 69:1, 69:13, 69:18, 70:14, 70:17, 70:21, 70:24, 71:14, 72:14, 72:17, 73:2, 74:1, 74:3, 74:6, 74:8, 75:23, 75:25, 77:8, 78:13, 78:14, 81:9, 81:21, 83:25, 84:7, 88:20, 90:12, 90:13, 90:14, 90:23, 92:7, 93:6, 93:16, 95:6, 95:15, 96:7, 96:15, 96:18, 97:9, 97:11, 97:24, 98:12, 98:13, 99:3, 99:9, 100:3, 100:5, 100:9, 100:14, 103:6, 103:18, 103:22, 104:18, 104:19, 109:9, 109:10, 109:25, 110:19, 111:21, 112:25, 113:3, 113:15, 113:16, 113:25, 114:10, 114:11, 114:13, 114:17, 114:19, 114:21, 115:3, 115:8, 115:16, 115:25, 116:1, 117:3, 120:11, 121:21, 122:9, 122:12, 123:4, 124:15, 124:23, 125:1, 125:14, 125:15, 125:18, 125:24, 127:13, 128:4, 128:8, 131:3, 131:11, 131:25, 132:7, 132:15, 132:24, 133:3, 133:4, 134:6, 135:12, 137:2, 137:3, 139:8, 141:10, 141:15, 144:19, 144:20, 146:19, 147:1, 147:7, 147:9, 147:25, 148:6, 148:7, 149:16, 150:7, 151:5

**above** [2] - 153:6, 155:7**above-entitled** [1] - 155:7**absolutely** [1] - 101:12**abundance** [1] - 93:18**Academy** [1] - 66:14**accept** [1] - 11:17**accepted** [1] - 7:1**access** [2] - 54:17, 95:15**accident** [3] - 20:22, 28:7, 31:5**accommodate** [1] - 151:21**accomplice** [2] - 16:8, 16:18**accomplices** [2] - 15:23, 116:20**accomplish** [5] - 16:16, 21:5, 23:17, 28:16, 38:23**accomplished** [2] - 32:6, 82:7**accomplishing** [2] - 22:1, 29:12**according** [3] - 126:5, 141:8, 142:9**account** [2] - 69:19, 69:21**accountable** [2] - 84:21, 84:22**accountant** [1] - 101:1**accuracy** [1] - 12:13**accurate** [2] - 11:18, 79:4**accused** [1] - 32:19**acoustics** [2] - 4:22, 4:24**acquit** [4] - 7:24, 112:16, 133:18, 134:6**across** [5] - 62:8, 62:24, 83:2, 93:11, 136:3

**act** [21] - 8:16, 17:2, 20:21, 20:25, 22:9, 23:16, 28:6, 28:10, 29:20, 31:4, 31:13, 32:4, 81:4, 81:5, 81:25, 82:5, 128:18, 132:4, 132:8, 132:17, 133:13  
**acting** [4] - 30:19, 32:7, 32:11, 132:24  
**action** [1] - 33:19  
**actively** [1] - 54:8  
**activities** [1] - 39:9  
**activity** [3] - 66:18, 66:23, 76:6  
**actor** [1] - 65:12  
**acts** [19] - 4:5, 13:12, 13:15, 14:1, 14:6, 14:8, 14:12, 14:16, 14:17, 14:20, 14:22, 23:18, 28:3, 32:13, 32:14, 32:15, 32:18, 81:9, 81:12  
**Acts** [1] - 23:22  
**actual** [14] - 10:24, 20:2, 20:5, 20:7, 20:13, 20:14, 20:18, 53:19, 81:18, 82:9, 83:8, 122:17, 147:12, 147:18  
**actually** [36] - 4:6, 6:11, 21:23, 21:25, 29:9, 29:11, 35:21, 38:14, 38:17, 50:2, 51:18, 51:25, 52:3, 52:24, 52:25, 53:12, 53:13, 54:12, 54:22, 55:5, 58:23, 64:11, 65:2, 66:6, 68:15, 68:21, 68:24, 82:2, 82:5, 82:7, 82:10, 82:11, 82:16, 85:18, 150:25, 153:20  
**acumen** [2] - 141:20, 142:7  
**added** [2] - 4:4, 4:5  
**addition** [1] - 54:3  
**additional** [1] - 148:4  
**address** [12] - 78:19, 78:20, 78:21, 78:23, 78:24, 78:25, 79:3, 88:12, 88:20, 119:7, 119:10  
**addresses** [1] - 88:10  
**ADDY** [1] - 2:1  
**Addy** [1] - 2:1  
**adjoined** [1] - 155:2  
**admissible** [1] - 10:3  
**admissions** [1] - 61:6  
**admit** [2] - 87:19, 88:20  
**admits** [5] - 40:3, 44:21, 101:20, 102:2  
**admitted** [11] - 12:25, 68:14, 71:18, 72:1, 72:9, 72:12, 87:3, 98:1, 102:23, 105:23, 111:13  
**advance** [1] - 71:12  
**advances** [2] - 22:9, 29:20  
**advantage** [1] - 15:6  
**affairs** [5] - 8:17, 89:20, 103:15, 128:19, 131:11  
**affect** [2] - 13:6, 123:10  
**affected** [1] - 15:11  
**affecting** [1] - 30:12  
**affiliated** [1] - 63:8  
**affirmative** [1] - 34:1  
**after** [40] - 4:7, 8:12, 34:14, 35:18, 37:10, 40:11, 41:21, 42:17, 43:13, 48:3, 56:16, 59:25, 60:5, 64:6, 71:7, 72:11, 74:7, 78:11, 84:4, 87:24, 89:8, 89:10, 92:4, 92:14, 97:13, 101:8, 102:19, 105:1, 108:3, 115:24, 121:15, 121:24, 123:3, 125:21, 128:14, 135:1, 135:5,

151:13, 154:18  
**afterwards** [1] - 56:5  
**again** [29] - 38:21, 40:11, 50:9, 51:7, 53:16, 54:5, 54:11, 54:24, 55:2, 55:23, 56:2, 59:12, 61:10, 62:16, 63:17, 77:23, 80:22, 82:16, 83:7, 83:15, 87:4, 91:14, 118:22, 120:13, 121:9, 133:2, 139:3, 148:16, 151:4  
**against** [16] - 7:5, 7:11, 15:5, 15:13, 22:25, 31:8, 38:17, 86:5, 93:9, 94:16, 94:19, 109:7, 109:8, 123:20, 124:10, 138:15  
**age** [4] - 119:9, 141:17, 142:4, 145:4  
**agencies** [3] - 105:10, 110:16, 111:6  
**Agent** [29] - 45:18, 45:21, 69:6, 71:20, 72:1, 72:3, 72:8, 91:8, 91:11, 91:19, 91:24, 92:5, 92:6, 92:7, 92:15, 92:22, 92:25, 96:18, 98:7, 100:2, 103:21, 108:15, 110:8, 110:20, 111:18, 112:7, 123:5  
**agent** [12] - 21:7, 28:18, 32:7, 65:13, 71:22, 90:25, 91:3, 91:5, 93:19, 96:4, 101:9, 120:20  
**agents** [17] - 43:23, 44:1, 44:6, 52:9, 65:3, 67:1, 69:9, 70:18, 71:19, 91:4, 103:21, 111:7, 125:12, 134:18, 139:15, 139:25, 140:14  
**ago** [6] - 60:17, 73:10, 74:11, 76:19, 132:8, 137:6  
**agree** [16] - 34:7, 58:3, 58:4, 58:6, 58:7, 63:6, 65:17, 67:14, 80:1, 80:21, 81:11, 81:16, 82:1, 109:9, 149:18, 153:8  
**agreed** [14] - 21:23, 29:9, 49:12, 80:15, 83:11, 91:24, 97:17, 100:18, 100:19, 100:21, 103:21, 145:21, 150:11, 152:25  
**agreement** [25] - 16:10, 19:4, 19:7, 19:9, 21:4, 21:18, 23:6, 23:10, 23:12, 28:15, 29:5, 34:12, 62:1, 71:9, 71:11, 80:1, 80:3, 80:4, 80:23, 83:7, 83:9, 89:16, 115:19, 153:15, 153:24  
**agreements** [6] - 15:23, 16:1, 16:4, 114:24, 116:20  
**agrees** [6] - 43:7, 82:13, 91:5, 103:4, 104:15, 113:18  
**ahead** [2] - 149:16, 152:19  
**ahold** [3] - 63:23, 68:1, 145:5  
**ahuevo** [1] - 109:2  
**aid** [2] - 30:15, 34:2  
**aided** [2] - 32:24, 81:22  
**aider** [1] - 81:23  
**aiding** [4] - 30:9, 32:10, 82:8, 82:14  
**aids** [1] - 10:12  
**aims** [2] - 22:5, 29:16  
**air** [2] - 93:15, 93:16  
**AK-47** [1] - 50:16  
**Alan** [4] - 24:12, 26:17, 26:20, 100:23  
**ALANIZ** [11] - 1:14, 4:8, 85:8, 133:23, 134:1, 147:10, 147:15, 147:17, 148:1, 150:14, 153:9

**Alaniz** [5] - 37:20, 72:7, 133:22, 143:13, 144:8  
**Alaniz**..... [1] - 3:7  
**Albert** [3] - 105:17, 105:18, 105:24  
**Alberto** [1] - 101:15  
**Aleman** [1] - 100:20  
**alive** [1] - 97:21  
**All** [3] - 5:11, 85:10, 144:5  
**all** [169] - 4:4, 4:10, 4:11, 4:16, 5:5, 5:13, 6:13, 8:3, 8:7, 8:12, 11:5, 11:15, 11:18, 11:23, 17:24, 21:9, 21:10, 21:19, 21:21, 21:24, 28:2, 28:4, 28:19, 28:20, 29:6, 29:7, 29:10, 34:3, 34:7, 34:22, 35:22, 37:19, 37:23, 39:8, 42:15, 43:25, 50:23, 52:12, 52:17, 52:21, 54:5, 57:12, 58:2, 58:3, 58:4, 58:6, 58:20, 59:12, 61:20, 61:21, 65:17, 65:22, 67:14, 68:2, 69:15, 71:2, 72:4, 73:8, 74:1, 76:24, 79:22, 80:13, 80:17, 80:21, 83:5, 84:8, 84:12, 84:14, 85:4, 85:12, 86:3, 87:7, 87:10, 87:18, 88:20, 89:4, 89:12, 89:19, 89:20, 90:15, 91:9, 91:15, 91:20, 91:22, 92:4, 92:19, 92:23, 93:5, 93:10, 94:23, 94:24, 95:14, 97:4, 97:21, 98:20, 99:2, 99:25, 101:6, 101:14, 101:22, 101:25, 102:5, 102:15, 102:20, 102:22, 105:4, 106:11, 109:8, 109:13, 111:4, 111:8, 113:17, 113:22, 114:6, 114:16, 116:16, 117:5, 120:12, 120:16, 121:10, 121:21, 123:3, 124:10, 124:11, 126:9, 128:15, 128:25, 129:10, 130:2, 130:14, 130:16, 131:7, 132:13, 132:14, 133:11, 133:14, 133:15, 133:16, 133:18, 133:24, 134:10, 136:4, 137:5, 138:7, 144:21, 144:24, 145:4, 146:11, 146:12, 146:21, 147:16, 148:3, 148:22, 148:25, 150:16, 150:18, 150:20, 152:4, 153:10, 153:12, 154:2, 154:12, 154:18, 154:20, 154:22  
**allegation** [2] - 93:24, 112:20  
**alleged** [21] - 9:5, 13:12, 15:23, 16:8, 16:16, 17:2, 21:10, 21:17, 21:22, 21:24, 21:25, 28:2, 28:21, 29:4, 29:8, 29:10, 29:11, 32:4, 89:9, 90:19, 116:20  
**Alleged** [1] - 23:22  
**allegedly** [2] - 14:8, 14:17  
**alleges** [3] - 8:21, 8:25, 9:3  
**alleging** [2] - 89:24, 107:23  
**Allen** [3] - 106:5, 106:10, 106:24  
**allow** [2] - 128:7, 132:4  
**allowed** [1] - 54:15  
**allows** [1] - 56:24  
**almost** [2] - 17:25, 103:18  
**alone** [4] - 7:20, 16:12, 20:13, 20:18  
**along** [3] - 38:10, 62:14, 140:12  
**Alpizar** [4] - 24:12, 26:17, 26:20, 100:23  
**Alpizar-Cordoba** [4] - 24:12, 26:17, 26:20, 100:23  
**already** [6] - 45:8, 59:4, 81:15, 99:16, 105:14, 134:17

**also** [24] - 6:1, 6:21, 10:5, 27:10, 29:20, 32:5, 40:20, 40:23, 41:21, 46:5, 47:7, 73:3, 75:12, 86:4, 96:17, 101:3, 101:20, 104:6, 104:19, 107:16, 108:1, 115:3, 116:23, 122:16

**alternates** [1] - 144:12

**although** [2] - 20:7, 117:5

**Altima** [1] - 44:14

**altogether** [1] - 113:21

**Alton** [3] - 25:16, 26:4, 26:15

**always** [11] - 15:7, 15:16, 16:14, 17:11, 17:25, 88:5, 102:12, 106:14, 110:8, 110:9, 110:10

**am** [7] - 4:17, 108:21, 116:5, 146:3, 146:22, 147:9, 150:7

**amass** [1] - 141:18

**amazing** [1] - 74:8

**amended** [1] - 7:8

**AMERICA** [1] - 1:4

**among** [1] - 121:22

**amount** [12] - 19:13, 19:15, 19:19, 19:21, 36:15, 86:11, 89:11, 92:9, 95:20, 111:12, 118:18, 124:6

**an** [64] - 4:5, 5:1, 7:6, 7:7, 7:10, 10:25, 11:21, 13:2, 13:21, 16:8, 16:16, 16:18, 16:19, 18:17, 19:4, 20:22, 21:4, 22:2, 23:6, 28:7, 28:15, 29:13, 31:5, 31:10, 34:12, 34:14, 37:16, 38:19, 41:18, 48:6, 50:16, 50:21, 52:24, 56:15, 62:1, 65:12, 66:13, 71:7, 75:25, 76:19, 80:1, 80:23, 81:5, 81:23, 82:13, 83:7, 83:9, 85:13, 89:16, 93:18, 95:13, 111:16, 112:5, 112:23, 118:16, 121:24, 129:3, 137:17, 148:16, 150:4, 153:15, 153:21, 153:24

**analysis** [2] - 9:20, 137:17

**analyst** [2] - 110:7, 110:10

**and** [894] - 4:5, 4:9, 4:11, 4:20, 4:25, 5:1, 5:3, 5:4, 5:6, 5:9, 5:13, 5:19, 5:22, 5:23, 5:24, 6:2, 6:5, 6:8, 6:25, 7:1, 7:3, 7:8, 7:23, 7:25, 8:11, 8:12, 8:16, 8:23, 9:1, 9:13, 9:18, 9:21, 10:3, 10:15, 10:21, 11:1, 11:5, 11:8, 11:10, 11:11, 11:19, 11:24, 12:9, 12:10, 12:14, 12:17, 13:6, 13:16, 13:18, 13:20, 14:14, 15:7, 15:8, 15:16, 16:6, 16:7, 16:14, 17:6, 17:16, 18:6, 18:12, 18:21, 18:23, 19:8, 19:16, 20:8, 20:22, 21:1, 21:12, 21:15, 22:4, 22:5, 22:12, 22:22, 23:14, 25:12, 28:2, 28:7, 28:11, 28:23, 29:1, 29:15, 29:16, 29:24, 30:9, 30:15, 30:25, 31:1, 31:5, 31:8, 31:14, 31:18, 31:21, 32:10, 32:12, 32:14, 32:20, 32:23, 32:25, 33:1, 33:7, 33:19, 34:11, 34:17, 35:2, 35:8, 35:9, 35:12, 35:13, 35:19, 35:20, 35:25, 36:1, 36:3, 36:8, 36:11, 36:19, 36:20, 36:21, 36:23, 36:25, 37:1, 37:3, 37:4, 37:6, 37:7, 37:10, 37:11, 37:15, 37:17, 37:24, 38:4, 38:5, 38:6, 38:11, 38:16, 38:20, 38:23, 39:1, 39:4, 39:15, 40:9, 40:11, 40:14, 40:15, 40:16, 40:17,

40:21, 40:23, 41:3, 41:4, 41:6, 41:11, 41:14, 41:15, 42:2, 42:4, 42:11, 42:13, 42:14, 42:19, 42:20, 43:3, 43:8, 43:13, 43:16, 43:21, 43:24, 44:3, 44:4, 44:10, 44:11, 44:14, 44:15, 44:17, 44:23, 45:2, 45:3, 45:10, 45:16, 46:16, 46:22, 47:2, 47:4, 47:10, 47:16, 47:18, 47:21, 47:23, 48:2, 48:4, 48:6, 48:13, 48:17, 48:20, 49:1, 49:5, 49:11, 49:23, 50:5, 50:15, 50:18, 50:21, 50:23, 51:1, 51:3, 51:7, 51:11, 51:13, 51:14, 51:17, 51:18, 51:25, 52:2, 52:3, 52:4, 52:7, 52:11, 52:12, 52:17, 52:19, 52:21, 52:25, 53:1, 53:5, 53:12, 53:20, 53:24, 53:25, 54:1, 54:2, 54:14, 54:16, 54:18, 54:20, 54:22, 55:2, 55:7, 55:8, 55:15, 55:21, 55:22, 55:23, 55:25, 56:7, 56:11, 56:13, 56:15, 56:19, 56:24, 57:2, 57:4, 57:7, 57:10, 57:11, 57:22, 57:23, 58:2, 58:7, 58:14, 58:15, 58:16, 58:20, 58:24, 59:5, 59:8, 59:13, 59:15, 59:17, 60:2, 60:5, 60:11, 60:15, 60:16, 60:18, 60:23, 61:3, 61:5, 61:10, 61:11, 61:15, 61:20, 61:23, 62:3, 62:8, 62:9, 62:14, 62:22, 62:23, 63:9, 63:10, 63:21, 64:5, 64:11, 64:16, 64:21, 65:1, 65:4, 65:5, 66:9, 66:19, 66:20, 67:7, 67:16, 67:19, 67:25, 68:2, 68:15, 68:22, 68:25, 69:2, 69:6, 69:10, 69:12, 69:13, 69:23, 69:24, 69:25, 70:4, 70:5, 70:6, 70:10, 70:13, 70:14, 70:19, 70:20, 70:21, 70:25, 71:1, 71:3, 71:5, 71:9, 71:25, 72:3, 72:4, 72:5, 72:6, 72:10, 72:21, 72:23, 73:5, 73:19, 74:19, 74:22, 75:3, 75:12, 75:14, 75:15, 75:19, 76:5, 76:6, 76:7, 76:10, 76:15, 76:24, 76:25, 77:8, 77:12, 77:21, 77:22, 78:1, 78:6, 78:7, 78:8, 78:13, 79:4, 79:8, 79:10, 79:11, 79:12, 79:16, 79:19, 80:3, 80:8, 80:15, 80:17, 80:20, 80:24, 81:6, 81:7, 81:16, 81:17, 81:22, 81:23, 82:2, 82:8, 82:14, 82:15, 82:16, 82:22, 83:2, 83:3, 83:12, 83:16, 83:20, 83:22, 84:3, 84:9, 84:17, 84:20, 84:21, 84:23, 85:1, 85:2, 85:12, 85:18, 85:23, 86:1, 86:6, 86:9, 86:13, 86:15, 87:3, 87:4, 87:6, 87:7, 87:9, 87:10, 87:12, 87:13, 87:17, 87:18, 87:19, 88:1, 88:6, 88:10, 88:11, 88:19, 88:20, 89:2, 89:7, 89:12, 89:21, 90:3, 90:9, 90:10, 90:14, 90:17, 90:24, 91:1, 91:4, 91:7, 91:8, 91:13, 91:14, 91:15, 91:16, 91:17, 91:18, 91:19, 91:20, 91:21, 91:23, 92:2, 92:3, 92:4, 92:5, 92:6, 92:10, 92:14, 92:21, 92:22, 92:23, 93:4, 93:5, 93:7, 93:11, 93:13, 93:15, 93:23, 94:1, 94:11, 94:17, 94:20, 94:22, 94:25, 95:5, 95:17, 95:24, 96:4, 96:8, 96:10, 96:14, 96:15, 96:17, 96:24, 97:4, 97:6, 97:10, 97:11, 97:13, 97:17, 97:20, 97:23, 97:25, 98:1, 98:3, 98:6, 98:9, 98:11, 98:13, 99:1, 99:2, 99:12, 99:16, 99:23, 100:7, 100:8, 100:9, 100:16,

100:17, 101:9, 101:10, 101:13, 101:21, 101:25, 102:7, 102:9, 102:10, 102:11, 102:13, 102:18, 102:19, 102:24, 103:7, 103:9, 103:22, 104:4, 104:17, 104:23, 105:8, 105:11, 105:14, 105:15, 105:16, 105:17, 106:2, 106:5, 106:7, 106:10, 106:14, 106:15, 106:19, 106:23, 107:1, 107:4, 107:7, 107:9, 108:2, 108:9, 108:20, 109:1, 109:4, 109:9, 109:11, 109:13, 109:20, 109:23, 109:24, 110:4, 110:8, 110:17, 110:18, 110:19, 111:3, 111:9, 111:13, 111:16, 111:17, 111:18, 111:22, 111:25, 112:7, 112:9, 112:10, 112:17, 112:18, 112:22, 112:23, 112:25, 113:9, 113:10, 113:18, 113:21, 113:22, 113:24, 113:25, 114:6, 114:7, 115:3, 115:5, 115:7, 115:21, 115:23, 115:24, 116:1, 116:3, 116:5, 116:7, 116:17, 117:4, 117:11, 117:12, 117:14, 117:18, 118:8, 118:12, 118:15, 118:20, 118:21, 119:12, 119:16, 119:17, 119:18, 119:21, 119:23, 120:2, 120:6, 120:10, 120:12, 120:14, 120:16, 120:17, 120:19, 120:25, 121:6, 121:10, 121:16, 121:17, 122:1, 122:3, 122:9, 122:11, 122:13, 122:16, 122:25, 123:16, 123:18, 123:23, 124:5, 124:6, 124:7, 124:11, 124:14, 125:2, 125:6, 125:9, 125:13, 125:14, 125:17, 125:20, 126:3, 126:14, 127:5, 127:22, 128:4, 128:8, 128:9, 128:14, 128:18, 129:1, 129:8, 129:19, 129:25, 130:7, 130:9, 130:13, 130:14, 130:24, 131:16, 131:19, 131:20, 131:22, 132:8, 132:11, 132:13, 132:15, 133:2, 133:7, 133:11, 133:12, 133:15, 133:16, 133:18, 134:1, 134:5, 134:6, 134:9, 134:12, 134:23, 135:5, 135:7, 135:8, 135:9, 135:12, 135:13, 135:15, 135:16, 136:1, 136:5, 136:7, 136:10, 136:11, 136:13, 136:21, 137:2, 137:3, 137:4, 137:8, 137:15, 137:21, 137:23, 138:8, 138:22, 139:2, 139:4, 139:10, 139:11, 139:13, 139:17, 139:21, 139:22, 140:4, 140:8, 140:9, 140:10, 140:14, 140:19, 140:22, 140:23, 140:25, 141:5, 141:10, 141:11, 141:13, 141:16, 142:5, 142:8, 142:9, 142:12, 142:15, 143:2, 143:5, 143:14, 143:19, 143:23, 143:25, 144:1, 144:3, 144:7, 144:10, 144:14, 144:17, 144:23, 144:25, 145:4, 145:7, 145:8, 145:11, 145:22, 145:24, 146:1, 146:5, 146:16, 146:19, 146:24, 147:19, 148:15, 148:25, 149:6, 149:15, 149:16, 149:20, 149:22, 149:25, 150:2, 150:7, 150:9, 150:10, 150:11, 150:20, 151:4, 151:6, 151:9, 151:12, 151:15, 151:16, 151:18, 151:19, 152:2, 152:8, 152:9, 152:14, 152:19, 153:8, 153:24, 154:12, 154:14, 154:24, 155:6, 155:7

**and/or** [1] - 89:2

**ANDREW** <sup>[1]</sup> - 1:10

**ANGELICA** <sup>[1]</sup> - 1:22

**ANIBAL** <sup>[1]</sup> - 1:14

**Annabelle** <sup>[1]</sup> - 107:6

**annual** <sup>[1]</sup> - 71:7

**another** <sup>[27]</sup> - 19:24, 20:10, 30:12, 32:6, 32:8, 32:12, 34:11, 44:9, 46:23, 47:25, 51:5, 55:2, 59:15, 60:3, 62:18, 66:5, 71:13, 71:16, 72:9, 75:22, 77:22, 83:25, 91:25, 96:25, 112:7, 132:23, 138:19

**answer** <sup>[15]</sup> - 10:1, 12:10, 18:2, 35:5, 35:14, 36:4, 49:6, 96:20, 146:16, 151:6, 152:9, 153:4, 153:21, 153:23, 154:14

**answered** <sup>[2]</sup> - 37:6, 37:10

**Antonio** <sup>[1]</sup> - 91:23

**any** <sup>[85]</sup> - 5:21, 6:15, 6:16, 6:23, 6:24, 8:10, 9:14, 10:3, 10:6, 10:18, 11:23, 12:3, 12:5, 12:15, 12:18, 13:24, 14:12, 14:21, 15:18, 15:19, 16:20, 17:1, 17:4, 17:7, 17:13, 17:19, 17:22, 19:25, 21:18, 29:5, 31:20, 31:21, 32:17, 35:15, 35:17, 47:19, 57:6, 61:9, 66:23, 69:14, 73:21, 74:24, 79:20, 81:12, 82:12, 82:13, 86:2, 89:9, 91:18, 95:6, 95:16, 95:19, 96:16, 98:18, 99:2, 99:3, 99:22, 101:9, 103:15, 106:12, 106:17, 106:24, 111:1, 111:3, 111:10, 112:22, 115:18, 116:10, 116:12, 116:14, 117:8, 123:2, 124:17, 124:19, 125:17, 127:14, 144:20, 147:13, 147:20, 147:24, 150:13

**anybody** <sup>[5]</sup> - 86:14, 86:21, 100:16, 115:7, 125:6

**anybody's** <sup>[1]</sup> - 86:22

**anyone** <sup>[9]</sup> - 18:7, 30:11, 34:10, 44:2, 47:11, 63:4, 91:17, 96:18, 99:19

**anything** <sup>[33]</sup> - 10:5, 10:9, 15:3, 32:5, 43:25, 44:1, 44:6, 44:8, 68:6, 68:11, 68:13, 70:21, 71:15, 72:19, 74:2, 75:4, 77:5, 86:7, 91:13, 95:6, 96:22, 103:1, 104:16, 104:17, 107:4, 110:13, 110:19, 138:1, 144:20, 146:15, 151:14, 154:20

**anyway** <sup>[2]</sup> - 39:24, 148:1

**anywhere** <sup>[3]</sup> - 80:1, 99:19, 110:22

**apartment** <sup>[2]</sup> - 45:20, 80:8

**apologize** <sup>[1]</sup> - 87:9

**apparently** <sup>[2]</sup> - 85:13, 94:25

**APPEARANCES** <sup>[1]</sup> - 1:13

**Appendix** <sup>[4]</sup> - 23:20, 23:21, 23:22, 28:3

**appendix** <sup>[1]</sup> - 4:5

**application** <sup>[5]</sup> - 78:23, 78:24, 79:5, 119:3, 131:22

**applications** <sup>[1]</sup> - 87:18

**apply** <sup>[6]</sup> - 6:2, 6:4, 6:19, 8:2, 113:4, 129:6

**appointment** <sup>[3]</sup> - 76:15, 76:19, 85:21

**appreciate** <sup>[1]</sup> - 66:10

**approach** <sup>[1]</sup> - 70:19

**appropriate** <sup>[1]</sup> - 57:5

**approved** <sup>[1]</sup> - 16:6

**April** <sup>[1]</sup> - 8:23

**are** <sup>[129]</sup> - 4:12, 4:24, 5:9, 5:21, 6:10, 7:17, 7:19, 9:15, 9:17, 10:18, 11:9, 11:18, 12:12, 13:5, 14:11, 14:21, 15:23, 15:24, 16:24, 17:3, 17:24, 18:16, 18:23, 28:2, 32:23, 34:3, 34:22, 35:15, 35:19, 36:8, 37:13, 44:22, 46:15, 46:20, 50:25, 51:15, 51:19, 51:22, 51:23, 51:24, 56:10, 57:25, 59:12, 60:15, 61:11, 63:3, 63:17, 63:21, 65:15, 66:25, 67:4, 67:5, 68:11, 68:21, 70:7, 70:24, 73:3, 76:21, 80:19, 80:20, 80:21, 83:5, 85:24, 86:21, 89:24, 90:19, 91:9, 91:20, 93:8, 94:4, 95:19, 95:25, 96:8, 102:22, 107:22, 107:23, 109:8, 110:2, 110:17, 111:13, 111:15, 112:2, 115:11, 116:20, 119:5, 123:4, 124:24, 126:12, 127:5, 127:6, 127:7, 127:8, 127:20, 128:3, 130:14, 131:6, 131:9, 131:11, 131:12, 132:9, 132:10, 133:2, 133:5, 134:11, 134:16, 134:17, 134:25, 135:23, 136:2, 136:9, 136:17, 136:18, 136:19, 137:8, 139:6, 143:20, 145:12, 145:21, 145:22, 152:1, 152:6

**area** <sup>[11]</sup> - 24:2, 25:16, 26:4, 26:15, 53:8, 54:25, 55:1, 62:9, 63:10, 63:25, 135:16

**aren't** <sup>[4]</sup> - 59:13, 128:11, 128:12, 131:13

**argument** <sup>[8]</sup> - 37:19, 93:14, 107:12,

129:8, 134:6, 135:21, 137:10, 139:3

**arguments** <sup>[4]</sup> - 9:15, 134:11, 140:23, 143:15

**Arguments** <sup>[1]</sup> - 3:4

**armed** <sup>[1]</sup> - 38:20

**armendariz** <sup>[1]</sup> - 51:14

**Armendariz** <sup>[15]</sup> - 25:3, 25:5, 25:10, 25:11, 49:7, 49:9, 49:11, 49:13, 49:23, 50:3, 50:11, 50:13, 51:7, 51:11, 76:4

**arms** <sup>[1]</sup> - 38:20

**around** <sup>[17]</sup> - 4:18, 8:19, 39:14, 39:18, 52:18, 52:22, 53:22, 54:14, 63:12, 63:16, 65:8, 68:8, 88:12, 93:15, 114:19, 126:9, 135:16

**arraignments** <sup>[1]</sup> - 154:22

**arranged** <sup>[1]</sup> - 68:4

**arrest** <sup>[5]</sup> - 66:19, 78:13, 119:24, 120:3, 120:5

**arrested** <sup>[7]</sup> - 52:8, 70:21, 98:8, 134:23, 135:4, 139:13, 142:15

**arresting** <sup>[1]</sup> - 140:22

**arrive** <sup>[1]</sup> - 65:4

**arrived** <sup>[1]</sup> - 59:4

**arrives** <sup>[1]</sup> - 48:1

**arriving** <sup>[2]</sup> - 6:3, 10:10

**articulate** <sup>[1]</sup> - 111:2

**Arturo** <sup>[13]</sup> - 25:3, 25:5, 25:10, 25:11, 49:7, 49:9, 49:11, 49:13, 49:23, 50:3, 50:6, 50:11, 51:7

**As** <sup>[1]</sup> - 23:22

**as** <sup>[115]</sup> - 4:5, 4:20, 4:22, 4:23, 5:10, 5:17, 6:10, 6:12, 6:13, 6:18, 6:19, 7:1, 7:4, 7:17, 9:6, 9:10, 9:25, 10:10, 10:11, 10:19, 10:21, 10:24, 11:9, 11:18, 12:2, 12:15, 15:5, 15:14, 16:6, 17:4, 17:18, 17:19, 20:1, 20:20, 20:24, 23:19, 27:10, 28:5, 28:9, 30:20, 31:3, 31:12, 32:6, 32:10, 32:15, 33:6, 34:18, 35:1, 39:3, 39:4, 43:17, 46:9, 46:18, 46:24, 56:24, 57:5, 58:7, 59:3, 59:4, 60:19, 60:24, 65:1, 65:19, 67:7, 68:5, 68:10, 69:13, 70:15, 70:16, 74:25, 81:14, 81:23, 87:16, 87:20, 88:3, 88:9, 89:13, 89:19, 90:7, 92:19, 94:1, 96:9, 97:12, 104:15, 113:2, 114:12, 114:19, 119:10, 120:1, 120:4, 120:19, 122:22, 123:8, 126:25, 127:22, 131:25, 132:1, 132:25, 136:8, 138:19, 138:21, 140:10, 141:24, 146:14, 152:7, 152:14, 153:3

**aside** <sup>[1]</sup> - 137:1

**ask** <sup>[17]</sup> - 12:1, 52:10, 52:11, 61:17, 89:12, 96:18, 105:14, 118:15, 119:14, 122:14, 125:14, 133:18, 147:2, 147:7, 150:16, 152:9, 154:2

**asked** <sup>[25]</sup> - 39:20, 41:16, 44:1, 64:7, 69:16, 75:13, 75:16, 77:19, 78:19, 85:19, 88:20, 94:21, 96:17, 98:11, 98:13, 98:18, 100:2, 108:15, 115:7, 120:17, 129:9, 133:15, 149:21, 152:8, 152:15

**asking** <sup>[6]</sup> - 45:6, 66:23, 66:24, 67:8, 108:23, 111:6

**asks** <sup>[2]</sup> - 114:15, 154:5

**aspects** <sup>[1]</sup> - 137:3

**assembled** <sup>[2]</sup> - 22:5, 29:16

**asserts** <sup>[1]</sup> - 10:24

**assessed** <sup>[1]</sup> - 115:22

**assisted** <sup>[1]</sup> - 34:2

**associate** <sup>[3]</sup> - 32:19, 33:21, 41:18

**associated** <sup>[4]</sup> - 22:4, 29:15, 33:15, 125:7

**association** <sup>[1]</sup> - 138:24

**assume** <sup>[3]</sup> - 10:5, 129:21, 145:25

**assuming** <sup>[2]</sup> - 90:25, 145:6

**assure** <sup>[1]</sup> - 112:11

**at** <sup>[142]</sup> - 1:19, 4:10, 6:1, 6:3, 10:10, 12:20, 12:23, 13:22, 19:12, 19:18, 20:5, 20:8, 22:2, 23:14, 23:15, 24:5, 24:9, 24:21, 24:24, 25:1, 25:15, 26:3, 29:13, 32:22, 34:22, 35:7, 38:3, 38:13, 38:15, 39:14, 39:16, 40:1, 40:25, 42:8, 42:22, 43:5, 43:25, 44:4, 44:18, 44:21, 45:12, 47:5, 47:24, 48:1, 48:14, 48:24, 49:2, 49:18, 50:15, 50:20, 51:6, 51:9, 51:11, 53:1, 53:3, 53:20, 53:22, 54:12, 55:20, 60:10, 61:9, 63:19, 65:22, 68:14, 69:14, 70:25, 72:15, 76:16, 76:20, 77:12, 79:1, 81:4, 82:6, 82:12, 82:13, 82:25, 83:23, 84:12, 85:21, 86:2, 89:7, 91:12, 92:7,



94:3, 94:22, 94:24, 97:4, 99:2, 99:6,  
101:14, 101:25, 102:5, 102:20, 103:5,  
103:20, 104:3, 106:8, 106:11, 107:5,  
108:11, 108:13, 108:25, 111:14,  
113:19, 116:4, 116:17, 116:23, 120:8,  
124:14, 125:23, 126:12, 130:5, 130:24,  
132:13, 132:14, 135:21, 137:21,  
138:15, 139:10, 139:16, 139:17,  
139:20, 140:18, 141:17, 142:4, 142:23,  
145:8, 145:14, 145:20, 149:8, 150:24,  
150:25, 151:1, 151:8, 151:24, 152:2,  
152:7, 152:10, 154:23  
**attached** [1] - 23:19  
**attacked** [1] - 118:21  
**attempt** [2] - 52:24, 53:1  
**attempted** [2] - 25:24, 26:1  
**attempts** [3] - 59:7, 73:8, 122:16  
**attention** [4] - 6:15, 9:18, 15:1, 144:3  
**attentive** [1] - 117:22  
**attorney** [1] - 77:18  
**Attorney** [1] - 1:19  
**Attorney's** [2] - 1:15, 109:11  
**ATVs** [2] - 108:10, 108:12  
**audio** [2] - 147:2, 147:12  
**August** [1] - 65:18  
**Austin** [21] - 1:20, 1:23, 1:23, 2:2,  
73:9, 73:13, 74:4, 75:8, 75:13, 78:16,  
78:17, 78:18, 78:20, 79:15, 80:13,  
114:4, 114:6, 118:20, 119:20, 142:14  
**authoritative** [1] - 66:11  
**auto** [1] - 47:25  
**automatically** [2] - 137:13, 140:16  
**available** [2] - 56:18, 146:23  
**avoid** [2] - 113:20, 113:21  
**Award** [1] - 66:14  
**aware** [1] - 142:2  
**away** [12] - 50:5, 50:17, 50:18, 50:22,  
50:23, 73:24, 75:19, 86:22, 87:25,  
119:17, 126:16, 128:8  
**awesome** [2] - 112:22, 112:23

## B

**back** [61] - 5:6, 5:19, 28:4, 35:14,  
43:14, 44:14, 45:15, 47:6, 48:8, 49:23,  
49:24, 50:20, 50:24, 51:2, 51:3, 51:5,  
51:6, 53:12, 61:4, 61:10, 63:16, 66:16,  
68:18, 69:9, 69:20, 71:10, 73:18, 75:12,  
75:14, 77:23, 79:10, 85:2, 87:13, 91:9,  
92:17, 93:11, 101:10, 103:5, 103:7,  
106:7, 115:13, 116:8, 117:4, 117:9,  
118:15, 120:12, 122:14, 131:19,  
131:20, 139:7, 142:5, 144:24, 145:20,  
145:21, 145:22, 147:8, 149:21, 150:10,  
150:24, 152:2, 154:5  
**backdrop** [1] - 124:10  
**bad** [8] - 21:2, 28:12, 31:15, 50:25,  
60:4, 75:17, 121:15, 144:10  
**badge** [1] - 58:24  
**bag** [2] - 43:9, 104:13

**bags** [1] - 42:14  
**bait** [1] - 122:20  
**Baldo** [1] - 107:1  
**Banda** [3] - 68:16, 100:25, 101:5  
**bandanna** [1] - 49:4  
**bank** [6] - 69:17, 69:19, 69:21, 110:6,  
141:22, 142:3  
**bankroll** [1] - 142:1  
**banks** [5] - 27:25, 69:18, 109:20,  
110:2, 141:23  
**banners** [1] - 90:13  
**bar** [2] - 107:2, 107:3  
**barely** [2] - 72:11, 101:22  
**bargaining** [3] - 16:6, 57:10, 116:22  
**barn** [1] - 149:11  
**Barrios** [11] - 24:15, 24:18, 25:7,  
25:12, 26:22, 46:25, 54:6, 114:22,  
116:12, 117:1, 149:3  
**Barrios's** [1] - 150:1  
**Barrios-Hernandez** [10] - 24:15,  
24:18, 25:7, 25:12, 26:22, 46:25, 54:6,  
114:22, 116:12, 117:1  
**Barrios-Hernandez's** [1] - 149:3  
**base** [1] - 6:21  
**based** [4] - 8:11, 10:2, 112:13, 128:14  
**basically** [12] - 35:23, 59:21, 63:25,  
76:12, 134:22, 136:7, 138:9, 140:21,  
141:12, 141:17, 141:20, 142:21  
**basis** [1] - 142:18  
**basketball** [1] - 143:6  
**bat** [1] - 78:22  
**Bates** [3] - 106:5, 106:10, 106:24  
**be** [125] - 5:8, 5:13, 5:17, 6:18, 7:12,  
7:16, 8:7, 8:15, 10:2, 10:11, 10:16,  
10:22, 11:20, 11:21, 12:14, 12:18,  
13:13, 14:12, 14:22, 15:7, 15:16, 15:23,  
16:12, 16:14, 17:17, 17:20, 17:21, 20:2,  
20:12, 23:3, 30:17, 32:5, 32:17, 33:11,  
33:23, 34:7, 34:9, 35:20, 37:18, 45:6,  
45:11, 49:5, 52:22, 54:19, 56:18, 56:25,  
57:4, 60:12, 71:10, 72:16, 72:21, 77:16,  
80:1, 80:5, 80:6, 80:9, 80:20, 81:7,  
81:16, 81:17, 81:24, 82:22, 84:20,  
85:12, 87:25, 89:4, 89:6, 93:12, 93:16,  
94:2, 96:20, 98:4, 100:9, 102:19,  
108:16, 111:2, 111:17, 111:23, 111:24,  
112:3, 112:4, 112:14, 112:18, 113:6,  
114:11, 115:22, 116:9, 118:25, 120:12,  
122:14, 126:2, 128:17, 130:22, 130:24,  
132:18, 132:19, 134:16, 138:4, 138:10,  
138:12, 138:18, 138:20, 139:22,  
140:15, 144:9, 145:25, 146:23, 147:7,  
147:21, 147:24, 149:10, 149:12,  
149:23, 150:20, 150:24, 151:1, 151:22,  
152:2, 154:23, 154:24  
**bear** [3] - 17:11, 35:15, 128:9  
**beat** [2] - 53:13, 99:7  
**beaten** [2] - 38:18, 117:7  
**became** [2] - 63:8, 142:6  
**because** [128] - 4:20, 4:23, 15:1, 17:7,

17:9, 20:22, 28:7, 31:5, 34:19, 38:11,  
39:16, 42:8, 45:8, 45:11, 45:17, 47:13,  
50:1, 50:2, 53:14, 55:18, 57:6, 57:25,  
58:19, 59:16, 60:21, 60:22, 62:5, 63:4,  
64:15, 65:2, 66:6, 68:12, 69:2, 69:25,  
70:8, 71:9, 71:17, 75:18, 76:16, 76:20,  
77:2, 77:24, 78:9, 78:12, 79:18, 79:19,  
80:21, 81:22, 85:25, 86:4, 86:19, 87:6,  
87:11, 89:5, 90:2, 90:6, 90:9, 90:25,  
91:1, 93:17, 94:4, 96:5, 96:6, 97:5,  
97:19, 98:10, 98:20, 98:25, 100:5,  
103:20, 104:1, 104:9, 104:14, 107:18,  
108:11, 108:17, 109:7, 110:1, 110:4,  
110:12, 110:13, 110:22, 111:9, 112:15,  
112:19, 112:23, 113:4, 113:11, 116:24,  
117:17, 120:3, 121:17, 125:2, 125:3,  
127:24, 129:5, 129:6, 129:7, 133:8,  
133:9, 133:10, 134:12, 134:20, 136:19,  
137:14, 137:25, 138:3, 138:7, 138:13,  
138:14, 138:20, 138:23, 139:1, 139:8,  
139:16, 139:23, 140:17, 140:20, 141:8,  
141:22, 142:2, 142:7, 142:11, 144:22,  
146:16, 147:18, 149:24, 153:21  
**become** [7] - 21:8, 22:10, 28:19,  
29:21, 80:4, 80:15, 90:10  
**becomes** [3] - 21:7, 28:18, 80:16  
**bed** [1] - 117:24  
**been** [70] - 5:23, 7:8, 10:20, 11:12,  
13:8, 14:23, 14:24, 15:1, 15:11, 16:6,  
16:22, 20:20, 21:24, 22:18, 28:9, 29:10,  
30:5, 35:4, 35:9, 38:7, 42:17, 46:21,  
46:24, 51:23, 60:21, 60:23, 64:15,  
65:18, 68:17, 71:18, 73:17, 75:9, 75:13,  
81:15, 84:15, 85:14, 86:15, 87:8, 87:14,  
87:23, 88:16, 94:24, 94:25, 96:25,  
99:16, 102:17, 107:18, 107:23, 109:14,  
109:25, 112:19, 115:3, 115:24, 116:20,  
117:7, 117:19, 120:1, 121:8, 121:14,  
121:23, 122:25, 123:1, 130:11, 134:17,  
135:1, 143:18, 144:12, 148:5, 150:22,  
150:23  
**BEFORE** [1] - 1:10  
**before** [25] - 6:25, 21:15, 29:1, 32:17,  
39:10, 43:24, 43:25, 52:25, 60:23,  
71:12, 73:23, 75:13, 76:14, 79:5, 79:6,  
90:12, 90:20, 93:23, 103:16, 105:15,  
136:17, 144:25, 145:19, 152:23  
**began** [6] - 8:22, 9:1, 80:11, 113:24,  
134:23, 139:11  
**begin** [6] - 7:5, 51:17, 76:3, 97:9,  
143:16, 143:23  
**beginning** [4] - 38:3, 151:24, 153:17,  
153:20  
**behind** [1] - 70:4  
**behold** [2] - 44:17, 48:13  
**being** [20] - 6:25, 15:14, 22:3, 29:14,  
32:23, 55:12, 73:7, 77:18, 102:8,  
102:23, 105:4, 112:21, 115:6, 118:10,  
120:1, 122:22, 128:20, 128:22, 128:23,  
139:12

**beings** [1] - 137:18

**beliefs** [1] - 34:18

**believability** [3] - 6:6, 11:19, 137:11

**believable** [2] - 137:4, 137:9

**believe** [48] - 11:23, 12:17, 13:8, 14:25, 15:2, 15:19, 16:17, 45:2, 57:6, 57:18, 58:10, 59:15, 60:9, 60:16, 65:16, 65:24, 69:4, 69:7, 72:20, 76:10, 77:5, 78:6, 79:12, 79:20, 89:7, 94:2, 94:3, 102:15, 103:13, 103:15, 104:1, 104:5, 106:20, 106:22, 112:14, 112:18, 113:11, 114:14, 114:20, 119:17, 120:10, 121:22, 125:1, 137:4, 142:20, 146:15, 147:3

**believed** [2] - 38:11, 101:3

**believes** [1] - 143:10

**belly** [1] - 108:25

**belonged** [1] - 139:2

**belongs** [3] - 48:14, 135:8, 135:18

**bench** [2] - 145:15, 148:14

**benefit** [18] - 30:13, 30:22, 52:17, 57:7, 82:21, 128:2, 137:12, 137:15, 137:22, 138:3, 138:13, 139:4, 139:9, 139:13, 140:1, 140:3, 140:14, 140:18

**benefits** [1] - 15:13

**benefitted** [1] - 118:6

**Benicio** [19] - 40:20, 40:22, 41:3, 41:7, 41:12, 59:24, 60:4, 60:10, 60:21, 60:24, 60:25, 67:22, 67:23, 97:6, 97:11, 98:3, 127:3, 141:4

**Benitez** [1] - 101:3

**besides** [1] - 149:13

**best** [13] - 52:23, 59:19, 61:13, 66:2, 88:3, 88:10, 108:1, 127:25, 136:19, 145:1, 145:10, 155:6

**better** [3] - 4:24, 87:23, 120:18

**between** [19] - 11:3, 21:4, 21:19, 28:15, 29:6, 31:19, 41:2, 72:5, 80:23, 91:8, 91:19, 92:6, 92:22, 97:10, 112:22, 114:24, 115:5, 123:17

**beyond** [42] - 7:18, 7:19, 7:23, 8:7, 8:14, 9:7, 11:14, 14:5, 14:14, 15:20, 16:17, 16:25, 19:2, 20:17, 23:4, 30:18, 32:25, 33:4, 33:5, 33:12, 34:24, 36:3, 36:10, 57:15, 84:13, 89:13, 89:14, 89:19, 90:3, 100:15, 102:24, 103:14, 104:19, 106:22, 119:4, 126:21, 127:17, 127:22, 128:5, 128:16, 129:12, 136:24

**bias** [1] - 6:23

**biased** [2] - 75:2, 127:24

**big** [3] - 58:13, 89:4, 121:2

**biggest** [1] - 73:8

**bills** [1] - 42:15

**binding** [1] - 9:22

**bit** [5] - 90:1, 99:8, 108:20, 108:21, 136:4

**black** [9] - 94:10, 95:6, 95:8, 95:11, 95:16, 99:14, 125:9, 125:10, 140:8

**Blackberry** [2] - 42:3, 125:22

**blaming** [1] - 146:12

**blank** [7] - 36:1, 36:11, 36:20, 37:4, 37:9, 98:20

**blue** [4] - 54:13, 78:7, 124:25, 125:7

**BMW** [1] - 142:13

**board** [1] - 132:7

**boat** [6] - 74:10, 74:12, 74:20, 74:25, 121:14, 147:16

**body** [1] - 47:25

**book** [1] - 150:8

**boom** [1] - 62:12

**border** [1] - 83:4

**born** [3] - 78:1, 109:19, 136:3

**boss** [4] - 39:11, 45:14, 56:20, 60:11

**bosses** [1] - 45:12

**both** [17] - 7:4, 20:8, 39:16, 39:17, 60:15, 80:21, 80:25, 83:11, 96:8, 141:11, 146:11, 146:12, 146:13, 149:22, 152:9, 153:8, 154:10

**bother** [2] - 46:9, 132:17

**bottom** [4] - 47:5, 50:1, 82:23, 108:25

**bought** [2] - 121:4, 121:5

**Boulevard** [1] - 1:23

**bound** [2] - 82:25, 145:9

**Box** [1] - 51:9

**box** [2] - 4:19, 52:15

**boxes** [1] - 116:16

**boy** [1] - 109:19

**boys** [1] - 126:17

**brag** [2] - 86:9, 90:14

**bragging** [1] - 90:13

**brand** [1] - 46:2

**break** [6] - 50:23, 85:2, 107:14, 122:7, 122:9, 145:19

**bricks** [3] - 48:11, 48:12, 106:2

**brief** [2] - 34:4, 35:21

**Brief** [6] - 145:17, 148:11, 150:17, 152:11, 153:14, 154:21

**briefly** [3] - 61:8, 137:1, 141:10

**brilliant** [1] - 99:25

**Bring** [1] - 101:19

**bring** [34] - 32:20, 35:14, 41:4, 43:14, 61:23, 62:12, 66:17, 76:21, 76:22, 86:2, 86:18, 89:11, 94:12, 95:7, 96:16, 98:6, 98:15, 99:12, 99:23, 101:17, 101:18, 112:15, 118:1, 127:18, 127:19, 128:12, 133:17, 143:25, 144:24, 148:14, 150:5, 151:3

**bringing** [2] - 51:21, 62:13

**brings** [6] - 41:8, 63:20, 91:23, 105:25, 106:5, 106:7

**broad** [2] - 53:23, 58:8

**broader** [1] - 152:8

**brother** [45] - 38:9, 38:21, 39:11, 40:5, 40:24, 41:1, 45:13, 46:16, 55:17, 56:8, 60:24, 61:18, 61:22, 62:15, 62:22, 64:1, 64:7, 64:17, 67:4, 69:23, 70:14, 72:11, 87:2, 90:17, 94:3, 94:5, 94:6, 94:7, 97:24, 97:25, 99:11, 99:12, 100:5, 100:12, 101:17, 101:18, 103:16, 103:19, 121:2, 138:8, 139:2, 142:23

**brother's** [7] - 41:19, 70:1, 93:25, 103:13, 103:17, 105:1, 107:21

**Brotherhood** [2] - 96:3, 102:5

**brothers** [1] - 92:1

**brought** [24] - 15:1, 38:20, 55:18, 57:24, 59:2, 59:9, 76:23, 86:5, 88:2, 88:9, 95:18, 95:24, 104:12, 106:19, 106:20, 106:24, 113:9, 114:3, 114:22, 115:18, 118:7, 118:12, 119:2, 128:9

**build** [1] - 77:1

**building** [1] - 44:12

**bullet** [1] - 51:10

**bullets** [2] - 50:17, 100:9

**bunch** [6] - 53:4, 53:5, 55:24, 88:9, 91:7

**burden** [16] - 6:5, 7:22, 7:24, 8:2, 8:5, 8:6, 17:13, 85:25, 86:1, 86:20, 88:23, 88:25, 110:25, 118:7, 129:7

**buried** [3] - 42:17, 64:14, 64:15

**burned** [1] - 97:21

**business** [15] - 38:4, 42:25, 43:1, 43:16, 68:22, 73:1, 95:10, 105:14, 125:17, 125:22, 141:17, 141:20, 142:7, 142:9, 145:3

**businesses** [3] - 45:8, 78:5, 110:4

**businessperson** [1] - 127:11

**busted** [1] - 64:24

**but** [160] - 5:1, 5:9, 5:18, 6:10, 13:14, 22:9, 29:20, 34:13, 34:18, 36:21, 36:24, 37:14, 42:9, 46:3, 46:7, 49:1, 50:2, 50:10, 52:13, 53:10, 54:16, 55:3, 55:17, 55:18, 56:6, 57:8, 59:10, 62:14, 63:8, 67:22, 68:7, 68:18, 69:1, 72:18, 72:22, 73:8, 74:14, 74:15, 75:8, 77:1, 77:18, 77:20, 80:23, 81:15, 85:13, 86:4, 86:16, 86:18, 87:22, 88:2, 88:7, 88:20, 88:23, 89:19, 90:16, 90:23, 92:10, 92:24, 94:13, 96:20, 97:25, 98:8, 99:8, 100:10, 100:14, 101:3, 101:13, 102:11, 102:15, 103:10, 103:19, 104:11, 105:1, 105:19, 105:22, 106:18, 106:20, 107:10, 108:1, 109:2, 109:6, 109:13, 109:18, 110:2, 110:25, 112:2, 112:16, 113:6, 113:15, 114:21, 115:2, 116:11, 116:23, 117:8, 117:11, 117:19, 118:10, 118:13, 118:25, 119:14, 119:24, 120:3, 120:5, 120:15, 121:2, 121:8, 122:6, 122:9, 122:15, 122:19, 123:2, 123:12, 123:14, 123:16, 123:24, 124:1, 124:5, 124:21, 124:22, 125:23, 126:19, 127:21, 130:1, 130:19, 131:1, 131:7, 131:14, 132:10, 132:24, 133:3, 135:11, 136:2, 138:1, 138:3, 138:7, 138:14, 138:17, 139:19, 139:23, 141:6, 141:21, 141:24, 144:16, 145:10, 146:4, 147:17, 148:2, 148:13, 148:16, 149:18, 149:23, 150:7, 151:1, 151:11, 151:13, 151:22, 152:7, 153:2

**buy** [4] - 45:24, 49:9, 49:12, 142:12

**buys** [1] - 142:16

**by** [59] - 1:24, 3:5, 3:6, 3:6, 3:7, 7:1,

7:6, 7:12, 7:15, 9:15, 10:16, 11:12, 12:19, 12:20, 13:15, 15:7, 15:11, 15:12, 15:13, 32:6, 32:7, 33:7, 33:14, 33:19, 39:4, 39:7, 41:24, 43:23, 46:21, 46:25, 50:5, 50:13, 53:16, 55:8, 55:9, 55:22, 59:18, 84:22, 85:14, 93:19, 95:10, 95:16, 103:9, 112:20, 121:15, 121:25, 129:22, 132:16, 134:18, 134:24, 135:23, 135:24, 136:2, 139:13, 143:1, 143:7, 145:9, 151:2  
**bys** [1] - 111:6

## C

**C** [1] - 4:1  
**calendar** [2] - 16:22, 117:12  
**California** [9] - 46:1, 46:7, 70:17, 71:6, 71:12, 77:23, 77:24, 142:15, 142:18  
**call** [15] - 9:18, 24:4, 38:24, 41:5, 55:2, 60:9, 60:21, 81:5, 83:2, 87:17, 92:20, 92:25, 118:24, 136:10, 145:8  
**called** [6] - 15:21, 16:6, 92:20, 104:7, 116:18, 142:6  
**calling** [3] - 17:13, 92:17, 118:25  
**calls** [10] - 40:11, 41:8, 47:10, 91:8, 91:15, 91:18, 91:19, 92:6, 92:22, 126:3  
**Camargo** [1] - 100:21  
**Camaro** [7] - 94:10, 95:6, 95:8, 95:11, 95:16, 125:9, 125:11  
**Camaros** [1] - 99:14  
**came** [14] - 42:14, 48:12, 64:21, 68:5, 72:24, 76:2, 86:13, 87:5, 92:23, 96:7, 98:10, 122:3, 123:23, 139:22  
**camera** [2] - 125:16, 135:1  
**cameras** [7] - 95:12, 99:19, 105:6, 105:7, 105:9, 111:5, 125:16  
**can** [109] - 5:8, 32:5, 34:12, 39:3, 39:6, 42:6, 45:2, 45:6, 45:15, 46:8, 47:23, 48:12, 49:3, 49:24, 57:7, 57:19, 57:23, 58:10, 59:15, 60:11, 60:17, 61:10, 61:11, 61:17, 61:18, 61:22, 61:23, 62:1, 62:2, 62:3, 62:7, 62:9, 62:11, 62:23, 62:24, 64:2, 64:3, 64:7, 64:18, 65:24, 66:18, 67:5, 67:11, 67:25, 69:4, 71:1, 71:15, 72:19, 74:3, 74:9, 74:24, 77:4, 80:1, 81:24, 84:22, 88:3, 89:4, 89:5, 89:6, 94:20, 94:21, 101:12, 105:13, 111:24, 112:3, 112:4, 118:3, 118:15, 120:5, 122:12, 122:14, 123:16, 124:14, 125:25, 126:3, 126:18, 126:19, 126:20, 128:12, 130:6, 130:11, 130:24, 131:21, 132:6, 132:8, 133:23, 134:1, 136:1, 136:21, 136:23, 137:23, 144:7, 144:9, 145:5, 145:10, 145:18, 147:7, 150:6, 150:8, 150:25, 151:4, 151:21, 152:9  
**Can** [1] - 42:4  
**can't** [40] - 39:4, 53:11, 53:16, 57:6, 63:12, 71:16, 74:2, 79:12, 86:20, 87:17, 87:19, 87:21, 88:6, 88:7, 89:11, 92:1, 95:3, 95:6, 103:7, 117:13, 120:23,

120:24, 124:2, 124:3, 126:12, 126:15, 126:23, 131:19, 131:20, 131:23, 133:2, 136:10, 138:9, 138:10, 138:18, 140:24, 142:12, 144:17, 146:16, 151:22  
**Cancun** [3] - 69:22, 69:24, 142:17  
**cannot** [6] - 10:4, 33:23, 86:21, 87:16, 112:20, 133:13  
**capability** [4] - 124:18, 125:4, 125:10, 125:13  
**capable** [1] - 131:6  
**car** [24] - 38:19, 40:9, 50:16, 54:13, 54:16, 54:18, 54:19, 54:20, 54:23, 72:6, 95:9, 98:19, 98:22, 98:23, 98:24, 98:25, 99:1, 99:5, 119:18, 124:25, 125:2, 140:8  
**care** [6] - 15:8, 15:17, 16:15, 96:5, 100:4, 127:11  
**careful** [2] - 8:12, 128:14  
**Carlos** [1] - 91:6  
**carried** [2] - 21:23, 29:9  
**cars** [7] - 44:11, 44:21, 52:21, 54:18, 99:3, 99:18, 142:13  
**Cartel** [15] - 38:12, 45:14, 48:10, 48:13, 60:13, 73:1, 89:2, 90:5, 90:6, 97:10, 100:6, 110:5, 112:10, 120:2, 142:24  
**cartel** [9] - 39:11, 40:23, 45:12, 46:16, 56:20, 60:16, 62:18, 62:20, 121:3  
**cartels** [3] - 87:7, 114:24, 127:2  
**Casa** [2] - 41:11, 41:12  
**case** [70] - 6:4, 6:8, 7:25, 8:13, 9:18, 9:22, 10:7, 10:21, 11:23, 12:5, 14:6, 14:15, 15:12, 15:21, 15:24, 16:9, 16:21, 17:5, 17:12, 18:10, 34:13, 38:4, 43:25, 52:7, 56:13, 57:10, 57:20, 59:19, 66:19, 67:2, 68:24, 75:18, 76:1, 83:10, 86:5, 87:21, 88:24, 93:8, 93:17, 94:14, 94:23, 95:25, 96:9, 109:8, 109:16, 109:25, 113:8, 114:20, 115:6, 115:23, 116:14, 116:18, 117:2, 121:25, 122:1, 127:6, 128:15, 130:8, 131:8, 132:6, 132:22, 133:7, 133:16, 135:21, 136:8, 138:6, 138:17, 139:5, 143:9, 144:19  
**CASE** [2] - 146:8, 148:24  
**cases** [14] - 15:25, 17:25, 113:20, 113:21, 113:22, 124:18, 129:3, 133:17, 134:15, 134:16, 134:17, 145:22  
**CASEY** [1] - 1:15  
**cash** [7] - 40:7, 40:9, 42:13, 43:14, 43:15, 69:17, 141:18  
**casting** [1] - 124:21  
**Castro** [4] - 44:19, 106:19, 106:20, 106:23  
**catch** [4] - 53:8, 124:22, 144:16, 144:17  
**caught** [3] - 43:23, 45:21, 51:25  
**cause** [5] - 103:14, 103:16, 110:23, 110:24, 132:4  
**caused** [1] - 130:24  
**caution** [3] - 15:8, 15:16, 16:14

**cautions** [1] - 116:23  
**caveats** [1] - 4:18  
**CD** [1] - 61:4  
**CDG** [2] - 90:6, 90:8  
**cell** [11] - 125:24, 125:25, 126:1, 126:7, 131:19, 135:3, 135:9, 135:15, 145:3, 145:24  
**center** [1] - 94:11  
**centers** [1] - 99:15  
**Central** [2] - 143:18, 143:20  
**Cerda** [1] - 101:16  
**certain** [9] - 4:17, 9:18, 9:24, 13:12, 14:23, 18:8, 22:4, 29:15, 134:15  
**certainly** [7] - 87:12, 88:7, 88:12, 88:22, 106:24, 110:2, 116:16  
**CERTIFICATE** [1] - 155:4  
**certifies** [1] - 79:3  
**certify** [2] - 79:8, 155:6  
**chain** [1] - 10:25  
**challenging** [1] - 80:20  
**chance** [2] - 113:18, 113:20  
**change** [2] - 34:17, 77:24  
**changed** [3] - 97:18, 98:4, 123:17  
**changes** [1] - 108:3  
**Channel** [1] - 45:1  
**character** [3] - 8:15, 128:17, 143:7  
**charge** [18] - 4:9, 7:6, 22:13, 29:25, 55:12, 63:9, 81:7, 89:5, 112:1, 112:2, 116:7, 116:18, 120:15, 127:21, 131:25, 132:22, 143:21  
**Charge**..... [1] - 3:3  
**Charged** [1] - 23:23  
**charged** [30] - 13:13, 14:1, 14:6, 14:10, 14:16, 14:20, 16:19, 17:1, 17:15, 17:19, 18:10, 22:11, 22:16, 23:16, 23:18, 29:23, 30:4, 30:20, 43:24, 79:25, 86:15, 97:7, 111:17, 120:5, 120:8, 122:3, 122:25, 127:9, 127:15  
**charges** [9] - 8:18, 18:4, 22:21, 30:8, 72:16, 89:12, 123:18, 123:19, 123:21  
**charging** [3] - 7:4, 81:23, 127:7  
**chart** [1] - 16:21  
**Chavez** [1] - 92:2  
**cheap** [5] - 24:5, 24:10, 46:3, 47:11, 47:22  
**check** [2] - 36:9, 36:15  
**checked** [2] - 36:14, 116:16  
**Chevrolet** [1] - 125:1  
**Chiapas** [12] - 25:9, 27:10, 27:15, 46:22, 48:4, 48:20, 49:17, 50:15, 52:13, 55:21, 107:17  
**Chicago** [2] - 43:23, 44:6  
**Chicano** [2] - 96:3, 102:5  
**children** [5] - 75:3, 78:3, 117:20, 119:9  
**Choco** [4] - 42:1, 103:9, 104:11, 104:12  
**choice** [3] - 111:23, 112:16, 127:18  
**choices** [1] - 100:7

**choose** [2] - 112:4, 125:5  
**choosing** [1] - 112:2  
**chose** [3] - 114:18, 120:3, 120:4  
**Chris** [1] - 65:13  
**Christmas** [1] - 74:14  
**circle** [1] - 152:23  
**circled** [2] - 153:2, 153:5  
**circumstance** [1] - 131:9  
**circumstances** [4] - 11:1, 15:11, 59:23, 131:12  
**circumstantial** [3] - 10:23, 10:25, 11:4  
**citizens** [2] - 96:11, 128:20  
**City** [15] - 13:20, 27:23, 39:13, 40:6, 47:7, 68:22, 69:25, 70:5, 70:8, 70:10, 70:11, 71:4, 78:2, 142:5, 142:8  
**claim** [2] - 73:12, 78:15  
**claims** [1] - 66:21  
**class** [1] - 116:9  
**clavos** [1] - 44:22  
**clean** [1] - 7:14  
**cleaned** [4] - 97:13, 97:14, 97:15, 98:4  
**clear** [3] - 62:7, 82:18, 152:24  
**clearly** [2] - 12:7, 12:10  
**close** [2] - 5:10, 133:22  
**Closing** [1] - 3:4  
**closing** [5] - 93:14, 107:11, 143:15, 146:13, 154:19  
**clubbing** [1] - 69:24  
**clue** [3] - 98:7, 106:10, 106:15  
**co** [5] - 15:24, 57:10, 57:14, 84:17, 116:21  
**co-conspirator** [1] - 57:14  
**co-conspirators** [1] - 84:17  
**co-defendants** [3] - 15:24, 57:10, 116:21  
**coach** [1] - 143:6  
**cocaine** [83] - 18:6, 18:12, 18:19, 18:23, 19:5, 19:13, 19:19, 24:1, 24:5, 24:9, 24:13, 24:16, 25:4, 25:6, 25:13, 36:11, 36:19, 36:22, 38:12, 41:23, 42:5, 42:6, 42:9, 42:18, 42:19, 43:3, 43:6, 43:7, 43:10, 43:11, 43:19, 44:5, 46:15, 47:11, 47:12, 47:14, 47:20, 47:22, 48:8, 48:13, 48:14, 48:22, 48:23, 49:7, 49:10, 49:12, 49:15, 49:22, 50:2, 51:4, 51:12, 51:16, 54:8, 54:10, 58:4, 61:20, 64:2, 64:8, 64:9, 64:12, 67:25, 68:5, 80:12, 82:23, 83:8, 83:12, 83:20, 84:2, 89:2, 91:7, 100:16, 102:23, 103:12, 104:24, 105:4, 105:9, 105:16, 106:2, 106:4, 139:1, 149:5, 149:8  
**code** [1] - 61:21  
**Code** [4] - 18:6, 22:23, 30:10, 30:14  
**coercion** [1] - 31:9  
**COGLIANO** [7] - 1:22, 4:13, 4:15, 85:16, 148:6, 148:18, 154:1  
**Cogliano** [8] - 1:22, 4:11, 85:15, 113:2, 124:17, 126:25, 127:23, 153:24  
**Cogliano.....** [1] - 3:6  
**collect** [2] - 45:16, 100:25

**collective** [1] - 66:1  
**college** [1] - 88:11  
**Collision** [12] - 42:25, 43:3, 43:16, 44:4, 44:7, 44:18, 83:24, 105:5, 105:11, 106:9, 142:6  
**Comandante** [4] - 60:10, 60:15, 86:13, 97:7  
**combined** [1] - 94:4  
**come** [36] - 5:6, 46:25, 47:3, 49:23, 56:14, 58:16, 61:10, 76:22, 78:8, 78:13, 84:20, 85:2, 85:18, 86:9, 88:10, 90:14, 94:13, 94:19, 95:3, 101:9, 103:6, 105:8, 107:3, 110:17, 112:25, 120:25, 124:11, 126:24, 133:11, 136:1, 136:13, 140:2, 144:9, 145:18, 150:10, 154:11  
**comes** [13] - 40:4, 50:15, 51:5, 51:6, 55:21, 103:8, 115:24, 116:11, 123:16, 125:17, 134:7, 137:18, 145:20  
**comfortable** [2] - 115:14, 154:9  
**coming** [4] - 73:18, 84:9, 90:18, 111:22  
**comment** [1] - 4:17  
**commerce** [7] - 30:13, 31:2, 31:17, 31:19, 31:25, 83:3  
**commission** [2] - 33:8, 137:7  
**commit** [13] - 14:10, 14:15, 14:20, 18:8, 22:25, 23:6, 25:18, 25:21, 32:13, 80:2, 81:25, 82:1, 136:18  
**committed** [29] - 8:19, 9:6, 9:7, 13:14, 13:25, 14:6, 14:8, 14:17, 21:1, 22:3, 23:15, 28:10, 29:14, 31:14, 32:15, 32:23, 33:7, 33:13, 56:11, 57:3, 79:10, 81:3, 81:5, 81:10, 81:12, 134:18, 135:2, 136:2  
**committing** [1] - 30:15  
**common** [12] - 8:11, 11:9, 11:11, 22:5, 29:16, 70:17, 74:25, 75:2, 79:14, 128:3, 128:14, 134:14  
**communicate** [1] - 35:11  
**communication** [3] - 31:18, 55:9, 64:6  
**community** [1] - 112:17  
**company** [4] - 54:18, 126:1, 130:4, 130:17  
**compare** [1] - 116:2  
**compartment** [1] - 44:12  
**completed** [1] - 78:3  
**completely** [1] - 68:10  
**computer** [2] - 1:25, 87:19  
**con** [5] - 72:22, 72:23, 73:4, 73:5, 73:8  
**conceal** [1] - 44:15  
**concealed** [1] - 43:11  
**concerned** [4] - 10:22, 17:3, 17:22, 63:1  
**concerning** [3] - 8:10, 10:6, 12:20  
**concert** [1] - 32:7  
**conclusion** [2] - 17:8, 35:7  
**conclusions** [1] - 11:11  
**conclusively** [1] - 119:3  
**condition** [2] - 42:10, 130:12  
**condo** [1] - 46:6

**conduct** [6] - 17:2, 32:14, 32:16, 34:1, 34:5, 127:14  
**conducted** [6] - 26:17, 26:22, 26:25, 27:5, 27:11, 27:17  
**confessed** [1] - 72:4  
**confesses** [2] - 52:11, 73:6  
**confessing** [1] - 59:21  
**confident** [1] - 66:11  
**confidential** [7] - 15:5, 91:6, 102:17, 109:3, 120:4, 120:12, 120:15  
**confine** [1] - 31:8  
**confirm** [1] - 71:1  
**confirmed** [2] - 98:25, 100:22  
**confounding** [1] - 125:21  
**confronted** [1] - 91:14  
**confused** [2] - 87:6, 87:7  
**connect** [1] - 60:25  
**connected** [3] - 103:2, 115:23, 128:1  
**connection** [5] - 31:9, 62:17, 62:22, 62:23, 68:9  
**connections** [1] - 67:10  
**conned** [1] - 72:23  
**cons** [1] - 73:4  
**consensual** [1] - 105:13  
**consent** [4] - 30:24, 31:9, 82:24, 83:1  
**consequences** [2] - 6:20, 72:16  
**consider** [22] - 9:11, 10:3, 10:4, 11:5, 11:15, 13:2, 13:24, 14:2, 14:7, 14:17, 14:25, 15:2, 46:8, 65:8, 126:12, 126:15, 126:18, 126:19, 126:21, 126:23, 127:16, 133:3  
**consideration** [5] - 5:25, 8:12, 17:23, 34:14, 128:15  
**considerations** [1] - 12:12  
**considered** [3] - 14:12, 14:22, 17:17  
**considering** [2] - 11:7, 123:8  
**consisted** [1] - 86:5  
**consistent** [2] - 13:5, 116:4  
**consists** [1] - 35:22  
**conspiracies** [4] - 89:6, 89:7, 89:10, 90:19  
**conspiracy** [67] - 8:21, 8:25, 18:5, 18:13, 19:1, 19:11, 19:17, 21:4, 21:8, 21:14, 21:25, 22:7, 22:8, 22:10, 22:11, 22:13, 22:15, 22:16, 22:19, 22:22, 23:15, 23:17, 28:14, 28:19, 28:25, 29:11, 29:18, 29:19, 29:21, 29:23, 29:25, 30:2, 30:3, 30:6, 35:25, 36:18, 37:3, 38:7, 38:24, 51:22, 58:13, 79:25, 80:1, 80:5, 80:10, 80:11, 80:15, 81:3, 83:7, 83:13, 83:25, 84:1, 84:3, 84:5, 84:6, 84:8, 89:4, 89:24, 93:22, 93:23, 94:4, 94:9, 96:13, 99:21, 104:21  
**conspirator** [3] - 22:10, 29:22, 57:14  
**conspirators** [15] - 21:10, 21:18, 21:25, 23:14, 24:21, 25:1, 25:15, 25:18, 25:21, 26:3, 28:21, 29:4, 29:11, 81:3, 84:17  
**conspire** [2] - 18:7, 22:25  
**conspired** [2] - 89:1, 89:8

**conspiring** [6] - 18:11, 89:15, 94:3, 100:15, 100:16, 106:3  
**constituting** [1] - 32:4  
**constructive** [5] - 20:3, 20:10, 20:13, 20:15, 20:18  
**consult** [1] - 34:11  
**consuming** [1] - 129:23  
**contact** [1] - 65:22  
**contacted** [2] - 103:9, 103:19  
**contacts** [1] - 62:6  
**containers** [1] - 104:18  
**containing** [4] - 19:13, 19:14, 19:19, 19:20  
**contempt** [1] - 148:17  
**content** [1] - 13:2  
**contents** [1] - 13:1  
**continue** [4] - 77:20, 77:21, 84:4, 121:5  
**continued** [1] - 8:23  
**continues** [4] - 41:22, 62:11, 84:5, 120:14  
**contract** [1] - 105:11  
**contractual** [2] - 15:22, 116:19  
**contrary** [2] - 16:11, 30:20  
**control** [4] - 17:19, 20:5, 20:9, 64:1  
**controlled** [13] - 8:22, 18:8, 18:11, 18:14, 18:16, 18:18, 18:23, 19:24, 36:1, 36:9, 36:14, 36:16, 96:2  
**controls** [1] - 9:21  
**convenience** [1] - 35:5  
**convenient** [1] - 74:7  
**conversation** [1] - 124:19  
**convict** [8] - 15:18, 16:15, 21:13, 28:24, 56:22, 126:14, 128:7, 129:3  
**convicted** [9] - 14:24, 44:20, 86:15, 89:6, 128:21, 128:22, 128:24, 128:25, 133:4  
**conviction** [2] - 14:24, 86:16  
**convictions** [1] - 88:1  
**convince** [4] - 65:7, 73:6, 73:9, 79:23  
**convinced** [4] - 23:3, 30:17, 33:11, 34:17  
**convincing** [2] - 8:15, 128:17  
**cooperate** [1] - 114:24  
**cooperating** [4] - 134:23, 137:6, 139:13, 139:19  
**cooperator** [4] - 57:14, 57:18, 135:18, 140:5  
**cooperators** [2] - 57:10, 140:13  
**coordinate** [1] - 40:18  
**coordinates** [1] - 67:4  
**coordinating** [1] - 91:10  
**cop** [2] - 58:24, 59:4  
**cope** [1] - 69:24  
**cops** [3] - 54:25, 55:1, 58:7  
**copy** [1] - 5:20  
**Cordoba** [4] - 24:12, 26:17, 26:20, 100:23  
**Corona** [1] - 100:25

**correct** [3] - 92:16, 140:25, 155:6  
**corrected** [2] - 90:3, 126:25  
**Corrections** [1] - 47:9  
**correctly** [2] - 119:25, 146:18  
**correctness** [1] - 6:16  
**corroborate** [3] - 57:25, 59:16, 95:6  
**corroborated** [2] - 44:18, 59:18  
**corroborates** [1] - 55:11  
**cost** [2] - 46:3, 142:16  
**could** [42] - 44:15, 53:8, 54:13, 54:14, 54:25, 57:2, 62:5, 67:2, 68:24, 73:17, 80:5, 80:6, 86:24, 87:10, 88:9, 88:10, 103:6, 106:9, 106:21, 107:7, 107:8, 111:23, 114:17, 114:18, 114:25, 120:25, 121:5, 124:23, 126:7, 127:2, 129:10, 135:2, 135:11, 138:1, 138:3, 138:4, 140:4, 146:13, 149:11  
**couldn't** [13] - 94:14, 95:1, 97:8, 98:21, 103:5, 104:2, 104:4, 104:25, 123:12, 123:13, 123:14, 133:10, 141:22  
**counsel** [3] - 37:20, 37:24, 143:16  
**Count** [35] - 4:7, 8:4, 8:21, 8:25, 9:3, 18:3, 18:4, 22:20, 22:21, 23:19, 23:23, 28:4, 28:14, 30:7, 30:8, 32:2, 35:24, 35:25, 36:4, 36:6, 36:7, 36:10, 36:13, 36:18, 37:1, 37:2, 37:6, 37:10, 51:19, 80:20, 81:18, 81:22, 83:6  
**count** [9] - 17:15, 17:16, 34:8, 35:6, 35:17, 83:6, 83:7, 84:23, 151:3  
**country** [6] - 31:21, 70:3, 96:11, 115:17, 134:16, 136:13  
**counts** [2] - 46:14, 89:5  
**couple** [6] - 73:23, 101:23, 101:24, 118:10, 135:4, 137:24  
**course** [6] - 32:22, 81:3, 82:12, 90:4, 102:14, 119:19  
**court** [17] - 5:2, 5:4, 35:13, 35:14, 94:14, 148:5, 149:24, 151:11, 151:12, 151:16, 151:17, 154:5, 154:6, 154:7, 154:9, 154:13, 154:16  
**COURT** [50] - 1:1, 4:4, 4:11, 4:16, 5:8, 5:13, 37:23, 84:25, 85:6, 85:12, 129:16, 133:21, 133:25, 143:13, 144:7, 144:12, 144:14, 144:16, 145:16, 145:18, 146:5, 146:9, 146:11, 146:21, 147:13, 147:16, 147:24, 148:3, 148:7, 148:12, 148:19, 148:23, 148:25, 150:16, 150:20, 152:6, 152:12, 152:17, 152:19, 152:24, 153:4, 153:7, 153:10, 153:16, 153:20, 153:23, 154:2, 154:13, 154:18, 154:22  
**Court** [17] - 2:4, 2:4, 2:5, 5:7, 35:9, 35:16, 37:24, 85:9, 115:21, 116:23, 146:10, 148:2, 148:21, 153:19, 155:5, 155:9  
**COURTROOM** [7] - 5:11, 85:4, 85:10, 144:5, 148:22, 150:18, 152:4  
**courtroom** [10] - 4:21, 5:12, 35:3, 61:11, 85:5, 85:11, 88:19, 144:6, 150:19, 152:5  
**courtrooms** [1] - 4:22

**cousin** [2] - 53:18, 72:6  
**cousin's** [1] - 139:17  
**cover** [1] - 113:14  
**covered** [1] - 74:1  
**crawling** [1] - 4:19  
**created** [1] - 130:24  
**credibility** [6] - 11:19, 12:15, 13:6, 74:6, 78:14, 137:11  
**credible** [5] - 57:25, 91:3, 93:19, 95:23, 137:4  
**cried** [1] - 103:18  
**crime** [44] - 14:10, 17:15, 18:7, 18:15, 19:1, 21:6, 22:3, 22:24, 23:3, 23:6, 28:17, 29:14, 30:11, 30:15, 30:16, 32:13, 32:20, 32:21, 32:22, 32:23, 32:25, 33:11, 34:2, 52:2, 56:17, 57:3, 80:2, 80:10, 81:24, 82:1, 82:2, 82:13, 100:6, 111:3, 111:17, 134:17, 134:19, 135:1, 135:24, 136:11, 136:17, 137:7, 138:11  
**crimes** [9] - 9:5, 9:8, 17:1, 17:18, 51:23, 56:12, 84:14, 136:2, 136:18  
**criminal** [16] - 7:5, 7:6, 17:12, 33:15, 33:18, 33:21, 33:22, 33:24, 33:25, 57:1, 87:25, 99:25, 100:10, 100:12, 112:12, 127:12  
**criminally** [1] - 32:17  
**criticism** [1] - 118:1  
**cross** [10] - 39:20, 54:15, 61:17, 61:24, 62:3, 62:9, 63:11, 100:9, 120:7  
**cross-examination** [1] - 39:20  
**crossed** [3] - 38:20, 68:2, 84:9  
**crossers** [2] - 66:25, 67:10  
**crossing** [1] - 66:25  
**CRR** [2] - 2:4, 155:5  
**Cruz** [1] - 100:19  
**CSR** [2] - 2:4, 155:5  
**Cuatro** [2] - 90:10, 90:17  
**cum** [1] - 107:1  
**cup** [2] - 44:14, 44:15  
**currently** [1] - 111:15  
**curve** [2] - 108:7, 108:8  
**custody** [8] - 52:9, 52:16, 93:9, 95:19, 98:10, 102:14, 105:18, 111:16  
**cut** [3] - 100:11, 113:22, 132:20  
**cutting** [1] - 127:8

## D

**D** [1] - 4:1  
**damaging** [1] - 76:8  
**danger** [1] - 103:4  
**dangerous** [6] - 90:11, 90:15, 112:16, 120:24, 129:23  
**Daniel** [2] - 77:17, 77:19  
**dare** [1] - 148:18  
**data** [4] - 93:5, 126:1, 126:7, 131:20  
**date** [4] - 9:8, 35:8, 39:21, 74:25  
**dates** [4] - 8:20, 9:6, 9:8, 37:11  
**dating** [3] - 39:16, 39:17, 39:18

**Davila** [6] - 26:9, 26:11, 27:21, 59:6, 102:22, 123:22  
**DAY** [1] - 1:10  
**day** [39] - 50:9, 50:10, 51:5, 55:2, 55:5, 58:17, 59:3, 74:10, 74:21, 75:23, 76:2, 76:5, 76:6, 76:13, 76:24, 77:9, 79:6, 80:11, 82:9, 82:10, 84:12, 101:8, 117:3, 118:10, 129:19, 132:1, 132:6, 132:24, 133:1, 145:4, 150:2, 150:23  
**Day** [10] - 51:6, 55:7, 73:10, 74:4, 74:9, 74:13, 74:15, 74:21, 75:13, 78:16  
**day-to-day** [4] - 129:19, 132:1, 132:6, 133:1  
**daylight** [3] - 50:10, 53:23, 58:8  
**days** [5] - 4:21, 53:16, 69:24, 118:10, 122:23  
**De** [1] - 101:16  
**DEA** [1] - 93:19  
**dead** [5] - 99:7, 114:8, 121:16, 121:18, 121:20  
**deal** [8] - 83:22, 99:7, 115:2, 120:11, 134:13, 144:17, 149:8, 150:3  
**dealing** [4] - 40:12, 92:24, 105:9, 137:18  
**deals** [3] - 68:2, 149:3, 149:7  
**dealt** [4] - 60:6, 84:2, 121:14  
**death** [6] - 38:11, 89:9, 89:10, 102:19, 102:20, 105:1  
**December** [1] - 65:20  
**decide** [21] - 5:24, 11:13, 11:23, 12:17, 15:2, 15:10, 16:24, 17:21, 34:13, 34:23, 38:25, 45:2, 69:4, 69:13, 69:23, 77:4, 78:11, 80:14, 81:10, 119:18, 149:20  
**decided** [5] - 60:13, 71:8, 77:24, 78:6, 131:7  
**deciding** [5] - 13:25, 14:25, 69:7, 126:13, 130:1  
**decision** [3] - 6:24, 12:1, 128:10  
**decisions** [7] - 6:12, 17:7, 129:19, 131:10, 132:1, 132:6, 133:1  
**deductions** [1] - 11:10  
**deeper** [1] - 130:7  
**DEFENDANT** [1] - 1:18  
**defendant** [238] - 7:5, 7:11, 7:12, 7:13, 7:15, 7:18, 7:20, 7:21, 7:23, 7:24, 8:1, 9:7, 11:14, 12:14, 13:13, 13:22, 13:25, 14:6, 14:9, 14:15, 14:18, 15:5, 15:13, 15:18, 16:8, 16:15, 16:25, 17:1, 17:5, 17:12, 17:18, 17:20, 18:5, 18:10, 20:18, 21:11, 21:14, 21:15, 22:12, 22:16, 22:17, 22:18, 28:22, 28:25, 29:1, 29:24, 30:3, 30:4, 30:5, 32:3, 32:12, 32:14, 32:15, 32:17, 32:24, 33:1, 33:3, 33:5, 33:7, 33:10, 33:15, 33:17, 33:19, 33:22, 33:23, 34:1, 34:24, 35:25, 36:3, 36:6, 36:10, 36:17, 37:7, 38:5, 38:10, 39:1, 39:9, 39:13, 39:14, 39:18, 39:20, 39:24, 40:2, 40:8, 40:12, 40:14, 40:21, 41:5, 41:10, 41:13, 41:16, 41:22, 42:2, 42:4, 42:8, 42:11, 42:19, 43:9, 43:19, 43:20,

43:24, 45:4, 45:7, 45:17, 45:19, 46:16, 47:2, 47:7, 48:3, 48:7, 48:19, 48:24, 49:2, 49:4, 49:18, 50:14, 50:20, 52:8, 53:3, 54:4, 54:7, 54:23, 54:24, 55:7, 55:14, 55:16, 55:21, 55:23, 56:2, 56:11, 56:12, 57:1, 57:15, 57:19, 57:22, 58:14, 59:1, 59:10, 59:14, 59:21, 59:24, 59:25, 60:8, 60:16, 60:20, 60:25, 61:6, 61:15, 62:16, 62:21, 63:1, 63:7, 63:10, 63:12, 63:14, 63:20, 64:2, 64:7, 64:16, 64:20, 64:22, 64:25, 65:3, 65:6, 65:19, 65:21, 65:23, 65:25, 66:1, 66:16, 66:21, 67:14, 67:17, 68:12, 68:14, 68:18, 68:20, 68:25, 69:1, 69:5, 69:8, 69:10, 70:7, 70:11, 70:12, 70:15, 70:18, 70:20, 71:3, 71:5, 71:13, 71:17, 71:22, 71:25, 72:1, 72:3, 72:5, 72:7, 72:9, 72:10, 72:12, 72:13, 72:20, 72:22, 73:12, 73:14, 74:2, 74:19, 75:20, 76:7, 79:16, 79:25, 80:14, 81:11, 81:17, 81:22, 82:4, 82:13, 83:11, 83:19, 84:20, 94:22, 111:24, 112:4, 116:10, 135:12, 136:24, 138:1, 141:15, 142:19  
**defendant's** [20] - 8:7, 8:10, 13:20, 13:22, 38:9, 38:21, 39:11, 40:23, 41:4, 42:25, 43:8, 43:16, 59:18, 59:20, 61:12, 64:1, 67:13, 71:1, 94:23, 134:6  
**defendants** [5] - 15:24, 57:10, 116:21, 137:6  
**defense** [15] - 12:6, 37:25, 57:5, 58:2, 58:8, 65:9, 72:20, 76:9, 85:3, 112:22, 116:15, 127:23, 129:8, 137:2, 140:23  
**defies** [1] - 74:25  
**defined** [1] - 33:6  
**definitely** [1] - 105:20  
**definition** [1] - 37:17  
**definitions** [1] - 144:1  
**definitively** [1] - 74:10  
**degree** [1] - 78:4  
**del** [1] - 90:6  
**deliberate** [2] - 5:19, 34:12  
**deliberately** [2] - 32:19, 72:5  
**Deliberates.....** [1] - 3:8  
**deliberations** [11] - 6:9, 7:16, 34:5, 34:9, 34:16, 35:2, 35:8, 35:12, 143:17, 143:24, 144:22  
**deliver** [1] - 19:23  
**delivered** [3] - 60:22, 105:5, 145:7  
**delivers** [1] - 43:12  
**dentist** [1] - 120:10  
**denying** [1] - 146:5  
**Department** [2] - 47:8, 125:5  
**departure** [3] - 115:21, 121:9, 124:1  
**depending** [1] - 151:22  
**deposit** [1] - 142:3  
**describe** [1] - 108:24  
**described** [4] - 13:15, 13:17, 13:19, 13:21  
**describes** [1] - 55:23

**deserve** [1] - 16:23  
**deserves** [2] - 13:11, 14:3  
**designed** [1] - 34:1  
**despite** [2] - 111:11, 113:16  
**details** [8] - 21:9, 21:19, 21:22, 28:20, 29:6, 29:8, 41:6, 63:17  
**detain** [1] - 31:8  
**detectable** [4] - 19:13, 19:15, 19:19, 19:21  
**detected** [1] - 54:19  
**detention** [1] - 31:10  
**determination** [1] - 128:4  
**determine** [10] - 9:11, 12:13, 13:4, 14:9, 14:18, 22:11, 29:23, 126:21, 130:12, 149:5  
**determining** [1] - 6:11  
**developed** [1] - 139:11  
**DeWalt** [1] - 104:12  
**diagnosed** [1] - 129:22  
**diagnosis** [1] - 131:11  
**did** [87] - 10:14, 12:2, 12:3, 12:4, 12:5, 12:6, 12:7, 12:8, 12:10, 12:21, 14:15, 22:12, 22:13, 29:24, 29:25, 31:25, 32:3, 39:20, 39:22, 44:25, 47:8, 48:22, 56:17, 57:22, 58:25, 65:4, 67:14, 68:15, 69:21, 71:6, 75:17, 77:20, 78:20, 82:4, 82:11, 82:15, 86:7, 86:18, 88:7, 90:14, 90:24, 91:2, 92:3, 95:15, 96:18, 96:21, 97:4, 98:16, 99:19, 99:22, 100:4, 101:9, 101:13, 101:25, 103:15, 104:16, 106:10, 108:11, 110:13, 111:8, 112:23, 114:9, 114:10, 116:4, 116:12, 116:13, 116:14, 117:15, 118:22, 118:23, 119:8, 119:16, 119:18, 120:10, 123:10, 124:8, 127:25, 131:1, 131:3, 133:3, 135:2, 135:9, 136:1, 136:22, 139:23  
**didn't** [75] - 42:20, 51:1, 53:14, 55:17, 56:6, 58:15, 59:2, 59:3, 59:9, 65:23, 69:12, 69:18, 74:16, 77:3, 78:11, 78:20, 83:1, 85:18, 86:25, 87:1, 88:8, 88:19, 88:22, 91:17, 92:9, 92:24, 96:16, 96:24, 97:3, 97:4, 97:5, 98:13, 98:23, 98:24, 99:8, 101:14, 101:25, 103:10, 105:8, 105:18, 105:20, 107:13, 110:13, 110:14, 110:17, 110:19, 110:22, 110:25, 111:3, 112:15, 117:6, 118:1, 121:20, 122:20, 123:23, 123:24, 125:3, 127:1, 129:3, 129:6, 129:9, 131:5, 131:24, 133:17, 134:21, 140:24, 141:22, 142:1, 146:20, 148:6, 148:15  
**died** [5] - 42:9, 87:8, 87:9, 90:9, 103:16  
**dies** [5] - 84:4, 90:10, 90:17, 90:20, 102:24  
**differ** [1] - 12:11  
**difference** [2] - 124:9, 131:18  
**different** [18] - 16:9, 52:21, 58:20, 58:21, 89:6, 89:12, 99:5, 100:7, 108:2, 134:7, 137:3, 137:18, 142:21, 147:18, 149:24, 150:3, 151:16, 154:6  
**differently** [1] - 100:14

**difficult** <sup>[1]</sup> - 134:20  
**difficulty** <sup>[1]</sup> - 147:23  
**dime** <sup>[1]</sup> - 118:2  
**Dionicio** <sup>[19]</sup> - 42:23, 43:2, 43:5, 43:7, 43:12, 43:13, 43:21, 43:23, 43:25, 44:3, 44:9, 44:18, 68:21, 83:23, 104:23, 105:25, 149:7  
**dire** <sup>[1]</sup> - 133:4  
**direct** <sup>[4]</sup> - 10:23, 11:4, 20:4  
**directed** <sup>[1]</sup> - 32:24  
**direction** <sup>[6]</sup> - 32:6, 32:8, 32:11, 73:17, 141:1, 141:7  
**directly** <sup>[7]</sup> - 12:10, 19:3, 20:9, 21:19, 23:5, 29:5, 36:7  
**dirty** <sup>[6]</sup> - 38:4, 43:20, 45:14, 45:16, 73:1, 104:12  
**disagree** <sup>[1]</sup> - 89:3  
**disagrees** <sup>[1]</sup> - 58:9  
**discharge** <sup>[1]</sup> - 115:4  
**discount** <sup>[2]</sup> - 119:13, 140:17  
**discover** <sup>[1]</sup> - 130:2  
**discredited** <sup>[2]</sup> - 12:19, 13:9  
**discrepancies** <sup>[1]</sup> - 133:8  
**discuss** <sup>[1]</sup> - 148:12  
**discussed** <sup>[3]</sup> - 22:5, 29:16, 148:10  
**discussion** <sup>[3]</sup> - 17:23, 148:20, 152:21  
**disease** <sup>[1]</sup> - 130:3  
**disingenuous** <sup>[1]</sup> - 94:2  
**dismantlement** <sup>[1]</sup> - 112:11  
**disobey** <sup>[3]</sup> - 21:3, 28:12, 31:16  
**dispense** <sup>[1]</sup> - 36:1  
**disprove** <sup>[1]</sup> - 88:22  
**dispute** <sup>[12]</sup> - 58:3, 75:24, 83:15, 90:3, 93:16, 102:25, 104:19, 122:11, 122:13, 146:19, 147:7  
**disregard** <sup>[6]</sup> - 6:14, 9:24, 10:9, 21:3, 28:13, 31:16  
**distance** <sup>[1]</sup> - 45:15  
**distinction** <sup>[1]</sup> - 11:3  
**distribute** <sup>[15]</sup> - 8:22, 18:5, 18:11, 18:14, 18:16, 18:22, 19:5, 19:22, 36:1, 43:6, 89:1, 100:16, 103:12, 103:17, 106:4  
**distributed** <sup>[2]</sup> - 42:20, 84:10  
**distributing** <sup>[6]</sup> - 93:24, 94:5, 99:17, 101:21, 102:2, 106:15  
**distribution** <sup>[3]</sup> - 95:21, 96:2, 102:23  
**District** <sup>[4]</sup> - 2:5, 2:5, 155:5  
**DISTRICT** <sup>[3]</sup> - 1:1, 1:1, 1:11  
**divided** <sup>[1]</sup> - 36:19  
**DIVISION** <sup>[1]</sup> - 1:2  
**DMV** <sup>[1]</sup> - 131:20  
**do** <sup>[130]</sup> - 6:22, 7:24, 9:24, 10:3, 10:5, 12:21, 17:6, 17:8, 21:2, 28:11, 31:15, 32:5, 34:12, 34:16, 34:18, 35:1, 39:16, 41:9, 42:14, 42:23, 44:13, 45:16, 47:3, 47:16, 48:10, 49:11, 52:20, 53:14, 53:15, 53:25, 54:1, 54:14, 59:16, 60:1, 60:5, 66:21, 66:22, 69:24, 71:20, 71:23, 74:11, 75:12, 76:18, 77:6, 80:4, 83:9,

84:7, 85:7, 85:20, 86:2, 86:7, 87:10, 87:15, 89:15, 89:16, 89:23, 91:13, 92:12, 92:13, 93:5, 93:21, 94:8, 95:5, 96:21, 97:4, 101:12, 101:13, 101:14, 104:17, 109:1, 109:2, 109:9, 109:13, 109:16, 109:18, 109:23, 110:8, 110:9, 111:3, 120:9, 120:17, 121:3, 121:4, 121:5, 121:22, 123:7, 124:2, 124:3, 124:18, 125:4, 125:9, 125:10, 125:12, 126:9, 127:16, 129:9, 129:10, 129:15, 130:2, 130:5, 130:16, 130:21, 131:9, 131:11, 131:12, 131:16, 131:23, 131:24, 132:20, 134:4, 135:1, 136:8, 136:12, 142:11, 142:12, 144:20, 145:1, 146:18, 146:20, 148:2, 148:12, 148:15, 148:16, 150:25, 151:15, 153:4, 155:6  
**Do** <sup>[1]</sup> - 41:16  
**Doctor** <sup>[2]</sup> - 130:19, 131:13  
**doctor** <sup>[4]</sup> - 85:21, 117:25, 118:4, 131:16  
**doctor's** <sup>[2]</sup> - 76:15, 118:2  
**doctors** <sup>[7]</sup> - 129:22, 129:25, 130:2, 130:9, 130:13, 130:14  
**document** <sup>[1]</sup> - 112:8  
**documentation** <sup>[1]</sup> - 112:1  
**documented** <sup>[1]</sup> - 96:24  
**documents** <sup>[2]</sup> - 7:4, 119:11  
**does** <sup>[39]</sup> - 9:5, 11:17, 22:6, 22:10, 29:17, 29:21, 41:7, 41:13, 43:15, 46:3, 54:7, 60:18, 60:19, 67:7, 67:16, 72:25, 73:4, 74:11, 79:14, 82:2, 95:9, 95:10, 95:11, 100:11, 106:17, 107:10, 108:19, 108:25, 116:8, 120:9, 123:10, 126:10, 126:11, 129:13, 129:18, 137:23, 139:5, 143:7, 154:5  
**doesn't** <sup>[39]</sup> - 40:1, 48:7, 49:5, 49:18, 52:16, 58:2, 63:14, 64:25, 65:22, 68:1, 68:12, 69:1, 70:16, 70:23, 77:15, 79:23, 80:12, 81:11, 81:17, 82:8, 94:17, 95:8, 99:13, 102:5, 106:1, 107:10, 109:3, 109:20, 110:1, 118:13, 121:11, 121:12, 121:16, 122:6, 123:10, 132:17, 135:17, 151:14  
**doing** <sup>[31]</sup> - 9:11, 9:18, 11:15, 49:1, 51:23, 53:9, 54:23, 55:8, 65:14, 68:22, 76:5, 80:10, 84:19, 90:14, 98:12, 106:12, 107:17, 108:1, 111:6, 113:14, 119:5, 119:16, 120:11, 121:6, 126:16, 128:11, 129:12, 135:20, 143:21, 150:9, 154:22  
**dollar** <sup>[1]</sup> - 42:15  
**dollars** <sup>[7]</sup> - 40:7, 40:9, 42:13, 46:4, 68:5, 142:1, 142:17  
**dominion** <sup>[1]</sup> - 20:9  
**don't** <sup>[96]</sup> - 4:19, 5:18, 44:6, 44:7, 44:8, 45:14, 49:20, 52:13, 57:20, 57:21, 58:1, 59:10, 59:13, 59:17, 61:20, 66:8, 66:9, 72:17, 72:24, 73:2, 73:16, 73:18, 73:19, 79:19, 80:9, 81:10, 81:16, 81:25, 82:4, 82:5, 82:9, 83:8, 84:7, 85:1, 86:20,

87:6, 87:12, 87:13, 87:20, 87:23, 87:24, 88:11, 89:18, 93:16, 94:2, 96:5, 97:3, 98:18, 99:6, 101:2, 101:12, 102:13, 103:10, 104:11, 105:19, 105:21, 109:10, 110:14, 110:24, 111:1, 111:25, 112:1, 112:18, 117:18, 117:21, 118:9, 118:17, 119:14, 125:9, 126:2, 127:20, 128:11, 130:6, 130:19, 131:14, 131:18, 133:5, 135:20, 135:21, 138:4, 138:5, 138:10, 144:19, 144:20, 145:6, 147:3, 147:11, 147:13, 148:18, 151:9  
**done** <sup>[19]</sup> - 10:5, 20:22, 28:6, 31:4, 60:18, 68:25, 84:19, 93:19, 107:8, 113:22, 113:23, 124:23, 125:8, 129:8, 130:7, 131:23, 132:9, 133:16, 134:19  
**door** <sup>[2]</sup> - 4:23, 149:11  
**dope** <sup>[7]</sup> - 63:11, 63:16, 84:9, 120:2, 120:16, 121:7, 121:14  
**dots** <sup>[1]</sup> - 120:6  
**doubt** <sup>[52]</sup> - 7:18, 7:20, 7:23, 8:8, 8:10, 8:11, 8:14, 9:7, 11:15, 14:5, 14:14, 15:20, 16:17, 16:25, 19:2, 20:17, 23:4, 30:18, 33:1, 33:4, 33:5, 33:12, 34:24, 36:4, 36:10, 40:22, 57:15, 80:24, 80:25, 81:2, 82:16, 82:19, 83:16, 84:14, 88:6, 89:13, 89:14, 89:20, 100:15, 103:14, 106:22, 119:4, 126:21, 127:17, 127:22, 128:5, 128:13, 128:16, 129:12, 136:25  
**down** <sup>[15]</sup> - 56:14, 68:5, 86:14, 97:4, 104:25, 110:14, 111:4, 112:20, 115:14, 119:19, 134:7, 136:5, 137:13, 140:4, 151:11  
**downward** <sup>[3]</sup> - 115:21, 121:9, 124:1  
**draft** <sup>[1]</sup> - 152:25  
**draw** <sup>[2]</sup> - 11:8, 11:11  
**dressed** <sup>[2]</sup> - 58:23, 122:17  
**drive** <sup>[5]</sup> - 50:5, 50:17, 111:6, 119:16, 119:18  
**drive-bys** <sup>[1]</sup> - 111:6  
**driven** <sup>[2]</sup> - 38:19, 135:23  
**driver** <sup>[2]</sup> - 43:6, 95:14  
**driver's** <sup>[1]</sup> - 78:25  
**drives** <sup>[1]</sup> - 49:14  
**driving** <sup>[5]</sup> - 46:2, 114:4, 118:18, 118:19, 142:13  
**drop** <sup>[1]</sup> - 97:20  
**dropout** <sup>[2]</sup> - 141:17, 142:22  
**drops** <sup>[1]</sup> - 40:8  
**drove** <sup>[1]</sup> - 26:6  
**drug** <sup>[25]</sup> - 38:4, 39:8, 40:2, 43:13, 44:2, 45:7, 46:10, 59:22, 60:22, 63:18, 67:6, 67:7, 68:22, 72:25, 73:7, 83:6, 114:24, 120:10, 123:1, 123:2, 124:18, 142:21, 142:25, 143:1  
**drugs** <sup>[19]</sup> - 41:23, 44:23, 61:19, 61:24, 66:24, 67:7, 83:11, 84:5, 101:21, 102:2, 102:7, 103:17, 106:16, 113:12, 114:25, 136:9, 138:23, 138:25  
**Drugs** <sup>[1]</sup> - 136:9  
**DTOs** <sup>[1]</sup> - 105:17

**duct** <sup>[1]</sup> - 25:21  
**duffel** <sup>[1]</sup> - 42:14  
**dug** <sup>[1]</sup> - 64:15  
**duration** <sup>[1]</sup> - 93:11  
**during** <sup>[38]</sup> - 9:12, 9:23, 10:6, 10:9, 10:11, 23:15, 26:17, 26:22, 26:25, 27:5, 27:11, 27:17, 34:16, 35:11, 48:6, 48:17, 54:11, 61:7, 66:11, 67:16, 71:17, 75:5, 81:3, 82:12, 85:17, 97:9, 101:21, 101:25, 102:21, 102:23, 107:14, 114:7, 117:22, 137:6, 141:11, 142:22, 144:22, 151:17  
**duty** <sup>[12]</sup> - 5:23, 6:1, 6:12, 6:19, 6:21, 9:10, 17:13, 17:21, 34:11, 34:23, 152:8

## E

**E** <sup>[3]</sup> - 4:1, 4:2  
**each** <sup>[40]</sup> - 5:20, 10:19, 10:20, 11:19, 11:24, 12:13, 12:16, 12:18, 17:15, 17:16, 19:2, 21:6, 22:4, 23:4, 28:18, 29:15, 30:17, 33:12, 34:8, 34:13, 35:6, 36:14, 36:20, 39:24, 40:16, 40:22, 52:25, 57:25, 58:1, 59:17, 64:18, 84:1, 84:21, 84:23, 114:13, 114:17, 114:24, 116:4, 118:23  
**earlier** <sup>[7]</sup> - 9:10, 12:24, 13:2, 13:3, 13:4, 134:2  
**early** <sup>[7]</sup> - 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20  
**earned** <sup>[1]</sup> - 141:18  
**easel** <sup>[2]</sup> - 5:1  
**easier** <sup>[2]</sup> - 80:16, 134:13  
**easily** <sup>[1]</sup> - 83:5  
**Easter** <sup>[1]</sup> - 74:14  
**easy** <sup>[3]</sup> - 45:13, 45:16, 46:12  
**eat** <sup>[1]</sup> - 76:25  
**Edgar** <sup>[1]</sup> - 101:3  
**Edinburg** <sup>[6]</sup> - 75:10, 75:19, 78:21, 79:7, 79:8, 79:16  
**EDWIN** <sup>[1]</sup> - 1:18  
**effect** <sup>[2]</sup> - 5:22, 34:19  
**efficiently** <sup>[1]</sup> - 127:3  
**effort** <sup>[4]</sup> - 32:8, 34:12, 38:23, 79:22  
**Eight** <sup>[1]</sup> - 24:23  
**eight** <sup>[4]</sup> - 4:21, 16:2, 56:10, 129:25  
**either** <sup>[24]</sup> - 11:4, 12:6, 15:14, 20:9, 20:18, 21:3, 28:12, 31:16, 32:24, 35:7, 35:13, 66:9, 79:10, 79:12, 96:9, 96:23, 97:3, 98:11, 98:23, 101:13, 112:3, 123:23, 147:14  
**EI** <sup>[5]</sup> - 101:19, 104:12, 105:17, 105:23  
**el** <sup>[2]</sup> - 105:19, 105:21  
**element** <sup>[5]</sup> - 20:16, 33:6, 33:23, 81:13, 83:15  
**elements** <sup>[8]</sup> - 18:15, 80:18, 80:19, 80:20, 80:21, 82:18, 83:5, 84:14  
**Eliud** <sup>[1]</sup> - 91:25  
**eloquently** <sup>[1]</sup> - 39:3  
**else** <sup>[12]</sup> - 15:3, 18:8, 47:15, 48:3,

58:12, 72:22, 82:1, 97:20, 105:12, 109:4, 116:8, 123:25  
**else's** <sup>[2]</sup> - 102:10, 138:25  
**emotion** <sup>[1]</sup> - 126:14  
**emphasize** <sup>[1]</sup> - 151:24  
**employer** <sup>[1]</sup> - 45:4  
**end** <sup>[8]</sup> - 6:1, 37:11, 50:10, 70:6, 70:25, 84:12, 140:14, 140:19  
**ended** <sup>[1]</sup> - 140:21  
**ending** <sup>[2]</sup> - 153:18, 153:23  
**ends** <sup>[2]</sup> - 77:18, 152:22  
**enforcement** <sup>[6]</sup> - 56:21, 91:4, 105:10, 120:1, 140:14, 143:11  
**engaged** <sup>[2]</sup> - 32:16, 34:1  
**engaging** <sup>[1]</sup> - 127:14  
**English** <sup>[3]</sup> - 151:12, 151:20  
**enough** <sup>[7]</sup> - 57:14, 74:1, 96:6, 97:21, 103:23, 115:4, 122:20  
**enter** <sup>[1]</sup> - 17:22  
**entered** <sup>[10]</sup> - 5:12, 15:22, 16:9, 16:18, 21:18, 29:4, 85:11, 98:9, 116:19, 150:19  
**enterprise** <sup>[2]</sup> - 32:9, 100:11  
**entire** <sup>[6]</sup> - 7:25, 76:13, 78:8, 106:3, 109:24  
**entitled** <sup>[4]</sup> - 10:18, 128:11, 128:13, 155:7  
**entry** <sup>[2]</sup> - 13:23, 71:21  
**equally** <sup>[1]</sup> - 113:4  
**equals** <sup>[4]</sup> - 137:13, 137:22, 139:4, 139:9  
**equation** <sup>[1]</sup> - 137:25  
**escape** <sup>[3]</sup> - 9:19, 111:9, 111:10  
**especially** <sup>[3]</sup> - 90:10, 117:20, 137:17  
**essential** <sup>[1]</sup> - 31:10  
**establish** <sup>[4]</sup> - 22:6, 29:17, 32:24, 38:22  
**established** <sup>[5]</sup> - 11:12, 33:23, 38:13, 38:15, 38:16  
**Estrada** <sup>[4]</sup> - 13:16, 13:19, 14:14, 45:19  
**evaluated** <sup>[1]</sup> - 12:15  
**even** <sup>[42]</sup> - 5:3, 21:14, 21:15, 22:2, 22:14, 22:17, 28:25, 29:1, 29:13, 30:1, 30:5, 35:16, 59:17, 60:5, 71:12, 81:24, 87:5, 87:12, 92:4, 93:2, 97:8, 98:16, 98:17, 99:2, 99:13, 99:24, 100:6, 101:17, 103:5, 103:15, 104:1, 104:3, 106:1, 106:19, 106:22, 107:22, 111:3, 123:13, 123:24, 140:1, 142:1, 148:6  
**evening** <sup>[1]</sup> - 50:12  
**event** <sup>[3]</sup> - 22:2, 29:13, 123:2  
**events** <sup>[1]</sup> - 11:1  
**eventually** <sup>[2]</sup> - 50:19, 120:14  
**ever** <sup>[11]</sup> - 39:21, 68:16, 75:13, 91:4, 96:18, 98:7, 98:16, 104:9, 122:21, 125:6, 151:14  
**every** <sup>[20]</sup> - 6:4, 21:7, 28:18, 32:3, 33:6, 58:15, 58:17, 71:6, 81:25, 82:5, 84:23, 113:13, 117:3, 128:9, 129:2,

129:3, 140:4, 140:12, 140:15  
**everybody** <sup>[9]</sup> - 91:5, 101:16, 109:23, 113:13, 123:24, 123:25, 124:4, 149:18, 151:4  
**everyone** <sup>[10]</sup> - 58:3, 58:6, 65:4, 78:8, 83:25, 97:19, 103:4, 104:7, 104:14, 111:11  
**everything** <sup>[21]</sup> - 55:11, 58:10, 58:12, 91:20, 91:21, 96:4, 97:13, 97:16, 106:21, 110:24, 111:20, 128:12, 136:23, 140:17, 140:24, 141:6, 143:19, 144:1, 146:1  
**evidence** <sup>[125]</sup> - 5:24, 6:22, 7:11, 8:13, 9:12, 9:15, 9:21, 10:3, 10:13, 10:23, 10:25, 11:4, 11:5, 11:7, 11:12, 11:16, 11:18, 12:20, 12:25, 13:12, 13:24, 14:2, 14:5, 14:7, 14:12, 14:15, 14:17, 14:22, 15:3, 15:4, 16:19, 16:22, 17:14, 17:16, 34:14, 34:19, 37:18, 38:13, 38:15, 38:16, 38:22, 39:2, 39:4, 39:5, 39:8, 39:10, 41:21, 45:17, 45:18, 46:8, 46:9, 56:13, 56:17, 57:7, 59:19, 65:2, 65:5, 65:7, 70:20, 73:15, 73:16, 75:8, 75:18, 76:1, 78:10, 83:10, 87:20, 89:11, 90:25, 93:15, 93:17, 93:18, 93:21, 95:5, 97:1, 98:9, 104:20, 104:22, 106:17, 111:10, 113:25, 114:1, 114:3, 116:3, 118:16, 124:13, 124:15, 125:8, 125:18, 125:19, 126:18, 126:19, 126:20, 127:19, 128:3, 128:4, 128:6, 128:13, 128:15, 130:10, 130:20, 130:21, 130:22, 131:17, 131:20, 132:25, 133:12, 133:14, 134:8, 134:12, 134:14, 134:24, 135:20, 136:23, 137:1, 138:17, 139:1, 139:7, 139:10, 140:25, 147:18  
**eviscerates** <sup>[1]</sup> - 103:1  
**ex** <sup>[1]</sup> - 62:6  
**ex-military** <sup>[1]</sup> - 62:6  
**exact** <sup>[3]</sup> - 9:6, 74:25, 98:9  
**exam** <sup>[1]</sup> - 107:2  
**EXAMINATION** <sup>[1]</sup> - 3:1  
**examination** <sup>[1]</sup> - 39:20  
**examined** <sup>[1]</sup> - 15:7  
**example** <sup>[9]</sup> - 6:4, 58:22, 59:6, 63:19, 64:20, 71:13, 75:22, 77:22, 138:2  
**examples** <sup>[6]</sup> - 61:8, 61:12, 69:13, 75:5, 108:4, 137:24  
**except** <sup>[6]</sup> - 10:8, 58:11, 58:12, 97:16, 132:14, 140:25  
**exceptions** <sup>[1]</sup> - 103:3  
**excerpt** <sup>[1]</sup> - 153:12  
**exchange** <sup>[2]</sup> - 116:25, 123:19  
**exciting** <sup>[1]</sup> - 5:15  
**exclude** <sup>[1]</sup> - 8:10  
**exclusive** <sup>[1]</sup> - 13:9  
**exculpatory** <sup>[1]</sup> - 97:1  
**excuse** <sup>[6]</sup> - 29:3, 40:18, 79:2, 86:16, 90:8, 143:22  
**excused** <sup>[1]</sup> - 145:12  
**exercise** <sup>[1]</sup> - 20:9



**exhibit** [3] - 118:16, 119:4, 119:16  
**Exhibit** [2] - 71:2, 147:11  
**exhibits** [11] - 9:14, 11:8, 71:2, 93:20, 118:16, 143:25, 145:20, 145:21, 145:23, 146:1, 146:7  
**exist** [8] - 22:13, 30:1, 87:14, 95:8, 95:9, 95:10, 95:11, 135:20  
**existed** [7] - 22:12, 22:15, 29:24, 30:2, 98:17, 101:7, 104:21  
**existence** [3] - 22:6, 23:15, 29:17  
**exists** [1] - 98:16  
**exited** [3] - 85:5, 144:6, 152:5  
**expand** [1] - 117:14  
**expect** [2] - 7:2, 136:8  
**expected** [1] - 122:21  
**expecting** [1] - 140:13  
**expects** [1] - 124:3  
**expensive** [2] - 129:24, 143:2  
**experience** [2] - 11:9, 109:20  
**experiences** [2] - 69:20, 109:23  
**explain** [8] - 6:2, 6:8, 6:13, 6:19, 34:9, 72:13, 74:4, 75:19  
**explaining** [1] - 87:25  
**explanation** [2] - 138:12, 138:19  
**exposure** [1] - 113:23  
**express** [1] - 10:21  
**expressly** [2] - 16:7, 57:11  
**extensive** [1] - 95:20  
**extent** [2] - 4:18, 151:21  
**extra** [2] - 97:19, 103:3  
**extraneous** [1] - 145:23  
**eyes** [1] - 82:3  
**eyewitness** [1] - 10:25  
**eyewitnesses** [1] - 135:24  
**Ezequiel** [3] - 13:15, 13:17, 14:4

## F

**f'ing** [1] - 61:23  
**Fabiola** [3] - 70:1, 70:5, 70:13  
**face** [2] - 49:4, 94:24  
**faces** [1] - 124:8  
**facilities** [1] - 114:16  
**facing** [1] - 72:15  
**fact** [18] - 4:22, 10:24, 11:2, 16:18, 17:17, 18:19, 22:3, 29:14, 57:13, 74:8, 85:24, 91:14, 113:16, 124:5, 126:16, 129:9, 132:11, 132:13  
**factor** [1] - 14:24  
**facts** [10] - 6:10, 6:12, 9:11, 9:19, 10:10, 10:21, 11:12, 34:23, 52:18, 135:21  
**failed** [1] - 12:21  
**fails** [2] - 7:23, 123:1  
**fair** [2] - 112:16, 112:17  
**fake** [1] - 104:6  
**false** [1] - 70:16  
**falsely** [1] - 12:19  
**falutin'** [1] - 132:2

**families** [1] - 133:5  
**family** [14] - 72:21, 72:23, 73:5, 78:2, 78:8, 84:16, 100:8, 115:6, 115:12, 126:16, 127:11, 128:8, 129:21, 139:17  
**family's** [1] - 70:4  
**far** [2] - 67:7, 131:25  
**father** [5] - 75:3, 117:18, 126:16, 126:17, 127:10  
**fathers** [1] - 85:24  
**favorable** [1] - 16:5  
**FBI** [38] - 65:13, 65:20, 65:22, 66:16, 67:14, 67:15, 67:17, 67:18, 68:6, 68:13, 68:16, 68:17, 68:23, 69:8, 70:14, 71:3, 72:23, 73:4, 78:13, 86:25, 87:6, 95:25, 96:18, 104:18, 105:8, 109:10, 111:14, 111:19, 111:20, 121:15, 122:1, 124:18, 125:4, 126:7, 134:18, 136:10  
**FBI's** [1] - 105:2  
**FDC** [1] - 93:11  
**February** [1] - 8:24  
**federal** [5] - 52:9, 71:19, 102:14, 111:16, 123:1  
**feel** [5] - 6:23, 11:9, 115:13, 128:8, 128:9  
**feeling** [1] - 100:14  
**feels** [1] - 128:4  
**Felipe** [20] - 9:1, 22:22, 23:7, 25:12, 25:24, 26:1, 37:4, 38:14, 51:14, 52:19, 52:24, 53:10, 53:17, 54:22, 55:13, 56:4, 59:8, 68:16, 80:24, 101:5  
**fellow** [2] - 34:15, 34:20  
**felon** [1] - 44:20  
**felonies** [1] - 14:24  
**felt** [1] - 75:15  
**Fernandez** [1] - 91:6  
**Fernando** [8] - 23:25, 24:4, 24:8, 24:18, 24:21, 76:7, 122:24, 132:14  
**few** [7] - 12:2, 12:12, 71:7, 73:24, 85:23, 97:17, 103:2  
**fifth** [1] - 19:16  
**figure** [4] - 48:12, 49:3, 49:25, 63:15  
**figured** [1] - 154:18  
**file** [3] - 95:25, 111:25, 115:20  
**filed** [4] - 7:11, 77:11, 123:19  
**fills** [1] - 79:5  
**final** [2] - 9:20, 37:19  
**finally** [4] - 6:8, 86:24, 112:21, 121:24  
**finances** [1] - 88:18  
**financial** [5] - 19:25, 88:17, 110:7, 110:10, 130:2  
**financially** [1] - 15:14  
**find** [58] - 7:21, 14:5, 14:14, 17:18, 18:25, 19:1, 20:16, 20:17, 22:13, 22:14, 22:15, 22:17, 23:2, 29:25, 30:2, 30:3, 30:4, 30:16, 32:1, 32:3, 32:25, 33:3, 33:4, 33:5, 33:10, 35:24, 36:3, 36:6, 36:16, 37:2, 37:7, 45:19, 47:19, 57:14, 57:19, 65:8, 67:5, 81:4, 81:14, 82:15, 83:13, 83:20, 103:13, 103:25, 104:14, 104:16, 109:12, 110:13, 120:11, 125:6,

131:16, 134:25, 136:24, 151:16, 151:19  
**finding** [1] - 84:22  
**findings** [1] - 10:10  
**fine** [4] - 5:1, 62:14, 116:22, 154:24  
**finisher** [1] - 134:2  
**fire** [1] - 100:9  
**firearm** [6] - 26:8, 26:20, 27:3, 27:8, 27:15, 27:20  
**firearms** [2] - 24:24, 25:18  
**Firm** [1] - 1:22  
**first** [39] - 6:3, 16:2, 18:17, 19:3, 23:5, 25:8, 27:9, 27:14, 27:16, 27:19, 30:19, 33:13, 34:25, 47:3, 52:6, 52:7, 54:22, 68:16, 70:5, 74:5, 83:22, 87:15, 90:22, 92:1, 92:8, 97:12, 107:11, 109:13, 110:21, 115:12, 119:24, 137:5, 139:12, 149:10, 149:17, 151:8, 151:15, 152:22  
**firsthand** [1] - 137:7  
**Fiscal** [13] - 46:23, 49:1, 49:16, 50:21, 50:23, 52:12, 55:15, 56:7, 68:11, 100:23, 104:6, 121:1, 132:16  
**Fiscal's** [1] - 120:25  
**fishing** [1] - 124:22  
**fit** [1] - 139:5  
**Fitness** [1] - 40:9  
**fitness** [2] - 94:11, 99:15  
**Five** [1] - 24:14  
**five** [2] - 35:23, 89:12  
**FNU** [1] - 25:8  
**focus** [1] - 135:20  
**folks** [5] - 114:2, 123:4, 124:10, 132:7, 133:11  
**follow** [5] - 6:2, 6:9, 6:12, 6:17, 52:21  
**followed** [1] - 128:9  
**following** [7] - 8:4, 19:2, 23:4, 30:18, 33:12, 36:4, 66:22  
**food** [6] - 78:24, 87:17, 118:3, 119:2, 119:6, 131:22  
**for** [206] - 5:5, 5:11, 5:16, 5:24, 6:4, 7:21, 10:8, 14:3, 14:11, 14:21, 15:5, 15:6, 16:4, 16:5, 16:7, 17:1, 17:10, 18:7, 18:25, 21:14, 22:24, 23:2, 28:25, 30:11, 30:13, 30:15, 30:22, 32:1, 32:3, 32:5, 32:14, 32:18, 33:10, 34:13, 34:20, 35:3, 35:4, 35:6, 36:2, 36:9, 36:11, 36:14, 36:16, 36:20, 36:22, 37:4, 37:9, 37:19, 37:20, 37:24, 38:7, 38:11, 38:14, 38:16, 38:25, 40:23, 46:12, 47:11, 47:12, 47:16, 49:15, 50:23, 51:10, 51:18, 52:17, 52:18, 54:20, 55:15, 56:3, 56:24, 57:11, 57:14, 58:12, 60:23, 60:24, 61:11, 62:2, 63:8, 63:21, 67:8, 67:12, 67:15, 68:4, 68:5, 68:17, 69:2, 69:24, 71:10, 71:11, 72:17, 72:24, 73:23, 73:24, 74:15, 75:15, 76:16, 77:8, 77:20, 80:19, 80:20, 82:21, 84:6, 84:18, 84:20, 84:21, 85:4, 85:10, 85:23, 86:16, 87:9, 89:12, 93:11, 94:5, 94:6, 94:7, 94:25, 95:2, 96:1, 96:2, 97:1, 99:21, 101:21, 102:2, 102:9, 103:10, 103:12,

103:17, 104:13, 104:24, 105:14,  
105:17, 106:2, 107:2, 108:2, 108:10,  
110:3, 110:24, 111:1, 111:11, 112:8,  
112:19, 112:21, 113:11, 114:15,  
114:20, 115:2, 115:20, 118:16, 119:10,  
119:12, 119:19, 121:6, 121:9, 122:15,  
122:25, 123:2, 123:4, 123:11, 123:19,  
124:2, 125:10, 126:13, 132:10, 132:14,  
133:15, 133:18, 133:22, 136:14, 138:1,  
139:7, 143:16, 143:18, 144:1, 144:3,  
144:5, 144:8, 144:10, 145:2, 145:19,  
146:12, 147:7, 147:10, 147:21, 149:12,  
149:19, 149:21, 149:23, 150:1, 150:18,  
150:23, 151:5, 151:18, 152:4, 152:8,  
152:15, 153:12, 153:17, 153:18

**FOR** <sup>[2]</sup> - 1:14, 1:18

**forbids** <sup>[3]</sup> - 21:2, 28:12, 31:15

**force** <sup>[1]</sup> - 112:9

**Ford** <sup>[2]</sup> - 26:6, 26:12

**foregoing** <sup>[1]</sup> - 155:6

**foreign** <sup>[5]</sup> - 30:12, 31:2, 31:19, 31:25,  
83:3

**forensic** <sup>[1]</sup> - 110:6

**foreperson** <sup>[5]</sup> - 35:2, 35:5, 35:8,

35:12, 37:11

**foresee** <sup>[1]</sup> - 37:18

**forgiven** <sup>[2]</sup> - 120:12, 121:10

**forgiveness** <sup>[1]</sup> - 121:4

**forgot** <sup>[3]</sup> - 122:1, 122:2, 139:8

**form** <sup>[7]</sup> - 8:3, 10:21, 35:4, 35:20,

35:22, 37:11

**formal** <sup>[2]</sup> - 21:18, 29:5

**former** <sup>[1]</sup> - 60:12

**forth** <sup>[2]</sup> - 75:12, 75:14

**fought** <sup>[1]</sup> - 66:3

**found** <sup>[9]</sup> - 17:20, 36:9, 99:11, 104:13,

107:14, 120:1, 129:1, 135:5, 140:8

**four** <sup>[5]</sup> - 24:11, 40:15, 65:15, 119:17,

133:9

**fourth** <sup>[3]</sup> - 19:11, 23:14, 30:25

**frame** <sup>[1]</sup> - 58:14

**Francisco** <sup>[5]</sup> - 24:9, 24:19, 25:4,

117:3, 117:6

**free** <sup>[3]</sup> - 45:12, 144:3, 152:1

**freedom** <sup>[5]</sup> - 86:22, 113:19, 115:5,

115:9, 116:25

**Friday** <sup>[1]</sup> - 74:12

**friend** <sup>[10]</sup> - 43:2, 45:3, 47:4, 49:3,

61:17, 62:3, 62:15, 79:19, 119:15,

122:24

**friends** <sup>[8]</sup> - 42:24, 60:3, 62:22, 63:3,  
72:23, 73:5, 100:8, 107:22

**from** <sup>[122]</sup> - 10:5, 11:8, 11:11, 12:11,  
13:18, 13:24, 14:5, 14:14, 15:6, 15:15,  
16:10, 20:21, 20:24, 24:1, 28:5, 28:10,  
31:3, 31:12, 38:12, 39:12, 39:13, 39:25,  
40:15, 40:18, 40:19, 40:20, 41:8, 41:23,  
42:1, 42:23, 44:19, 44:24, 45:18, 45:21,  
46:15, 46:19, 47:7, 47:8, 48:12, 48:16,  
48:19, 49:13, 52:5, 52:6, 55:10, 56:21,

60:17, 61:24, 63:3, 64:6, 65:19, 66:5,  
67:23, 67:25, 68:6, 76:19, 77:10, 77:17,  
80:8, 83:4, 84:9, 84:16, 85:2, 85:18,  
86:13, 92:25, 93:20, 94:11, 95:17,  
95:21, 95:24, 96:18, 97:6, 97:12, 98:21,  
99:11, 101:20, 102:7, 103:11, 104:11,  
105:13, 105:18, 105:20, 106:10, 107:2,  
107:9, 109:13, 109:19, 109:24, 112:6,  
113:23, 117:5, 118:14, 118:19, 119:17,  
122:10, 122:25, 126:1, 126:5, 126:16,  
128:2, 128:8, 128:20, 128:22, 128:23,  
129:12, 132:7, 136:4, 136:9, 137:1,  
138:16, 139:17, 141:19, 142:4, 142:8,  
149:4, 149:7, 150:14, 151:10, 155:7

**front** <sup>[5]</sup> - 42:10, 42:12, 64:10, 64:11,  
144:8

**full** <sup>[3]</sup> - 92:9, 93:19, 99:1

**fully** <sup>[1]</sup> - 46:21

**fun** <sup>[1]</sup> - 94:25

**function** <sup>[1]</sup> - 9:16

**funding** <sup>[1]</sup> - 112:8

**further** <sup>[2]</sup> - 19:9, 23:12

**future** <sup>[2]</sup> - 137:22, 140:3

## G

**G** <sup>[2]</sup> - 4:1, 4:2

**Gabriel** <sup>[5]</sup> - 24:15, 24:18, 25:6, 25:12,  
26:21

**gagged** <sup>[1]</sup> - 82:25

**game** <sup>[1]</sup> - 63:18

**Garcia** <sup>[12]</sup> - 42:24, 43:6, 43:8, 68:20,  
77:17, 77:19, 100:21, 104:24, 105:17,  
105:24, 106:15, 106:23

**Garza** <sup>[11]</sup> - 24:23, 25:23, 26:24, 27:2,  
27:25, 52:6, 54:3, 101:20, 119:23,  
140:6

**Garza's** <sup>[1]</sup> - 119:24

**Garza-Ochoa** <sup>[1]</sup> - 27:25

**gas** <sup>[1]</sup> - 99:6

**gave** <sup>[16]</sup> - 12:23, 25:13, 44:4, 48:23,  
49:7, 51:10, 54:12, 64:23, 68:4, 83:21,  
83:23, 105:15, 140:9, 140:14, 151:7

**gear** <sup>[1]</sup> - 59:4

**gears** <sup>[1]</sup> - 53:20

**general** <sup>[2]</sup> - 6:4, 17:24

**gentlemen** <sup>[5]</sup> - 5:13, 85:1, 85:12,  
143:14, 150:20

**Geographic** <sup>[1]</sup> - 44:25

**GERALD** <sup>[1]</sup> - 1:18

**Gerardo** <sup>[26]</sup> - 9:1, 22:23, 23:7, 25:13,  
26:5, 26:6, 26:7, 26:13, 37:4, 38:15,  
51:14, 53:18, 58:22, 80:24, 102:4,  
122:8, 122:9, 122:15, 134:23, 135:3,  
135:13, 139:12, 139:16, 139:19,  
139:25, 140:5

**Gerry** <sup>[1]</sup> - 112:25

**get** <sup>[110]</sup> - 5:10, 5:15, 38:6, 40:7, 41:14,  
42:4, 42:6, 42:12, 45:14, 46:9, 47:14,  
47:23, 48:22, 49:6, 49:23, 49:24, 50:1,

50:4, 51:1, 51:4, 51:13, 52:16, 53:11,  
53:17, 54:1, 57:4, 59:5, 59:7, 60:11,  
60:18, 61:18, 61:22, 61:23, 62:7, 62:8,  
62:11, 62:14, 62:23, 62:24, 63:12,  
63:22, 63:23, 64:2, 64:6, 64:8, 64:9,  
67:1, 67:6, 68:1, 68:4, 70:2, 70:9,  
70:21, 73:21, 79:6, 82:22, 84:7, 87:14,  
87:16, 87:17, 90:1, 90:2, 92:9, 99:14,  
103:20, 105:13, 107:13, 111:3, 111:8,  
111:16, 112:8, 117:4, 117:14, 117:15,  
118:3, 118:15, 118:22, 120:8, 121:11,  
122:6, 123:23, 125:14, 125:25, 126:1,  
131:14, 131:19, 131:20, 133:12,  
133:23, 134:1, 135:9, 135:15, 136:13,  
136:16, 138:21, 138:22, 139:13, 140:1,  
140:17, 141:24, 144:14, 145:5, 145:11,  
146:6, 152:24

**Get** <sup>[1]</sup> - 51:3

**gets** <sup>[25]</sup> - 41:7, 41:23, 42:1, 42:17,  
42:19, 43:13, 43:19, 43:22, 43:23, 46:1,  
49:22, 50:17, 50:18, 51:7, 64:11, 67:23,  
75:23, 78:4, 84:9, 91:9, 93:25, 139:13,  
142:15, 142:25

**getting** <sup>[17]</sup> - 43:20, 47:15, 50:11,  
51:25, 57:7, 63:13, 91:10, 104:10,  
116:25, 119:1, 124:1, 125:21, 128:2,  
132:10, 138:3, 140:13

**give** <sup>[35]</sup> - 5:18, 6:3, 6:7, 6:14, 10:12,  
11:4, 13:9, 16:22, 34:4, 34:18, 35:12,  
40:6, 41:6, 42:9, 50:7, 50:21, 51:12,  
62:3, 66:13, 69:14, 83:1, 91:17, 120:19,  
120:23, 122:7, 122:9, 131:17, 136:23,  
137:23, 145:1, 145:10, 145:24, 146:16,  
149:25

**given** <sup>[6]</sup> - 11:20, 20:5, 20:8, 137:12,  
144:21, 144:25

**gives** <sup>[5]</sup> - 43:17, 48:8, 49:14, 106:8,  
113:17

**giving** <sup>[3]</sup> - 14:2, 93:14, 105:6

**glued** <sup>[1]</sup> - 76:13

**Go** <sup>[1]</sup> - 59:5

**go** <sup>[72]</sup> - 5:9, 5:19, 34:25, 36:7, 37:1,  
37:6, 37:10, 40:7, 41:12, 41:14, 43:21,  
47:18, 48:6, 48:7, 48:8, 48:15, 48:16,  
48:19, 49:18, 50:5, 50:20, 50:24, 51:25,  
52:3, 52:25, 53:9, 53:12, 53:16, 53:22,  
54:14, 59:3, 61:8, 62:19, 69:25, 71:6,  
76:25, 77:25, 80:16, 81:14, 84:3, 87:13,  
93:11, 97:18, 99:4, 103:5, 103:7,  
105:14, 107:10, 118:3, 120:12, 125:5,  
126:19, 127:6, 130:9, 131:16, 131:19,  
131:20, 135:15, 139:7, 140:4, 145:10,  
149:14, 149:15, 149:16, 150:5, 150:6,  
150:8, 150:10, 152:1, 152:19, 154:23

**goal** <sup>[4]</sup> - 38:23, 50:1, 66:20, 94:7

**goes** <sup>[20]</sup> - 36:13, 41:24, 43:8, 46:25,  
47:6, 48:19, 48:20, 48:25, 49:2, 49:22,  
51:2, 76:19, 77:22, 125:17, 140:25,  
142:5, 142:8, 150:2

**going** <sup>[109]</sup> - 4:23, 5:1, 5:5, 5:18, 5:19,

34:4, 37:15, 37:20, 39:10, 40:6, 42:10, 42:22, 49:1, 49:8, 50:3, 50:25, 51:25, 56:13, 56:16, 56:18, 56:22, 61:4, 61:7, 61:17, 63:2, 63:3, 63:5, 70:13, 71:21, 73:17, 73:18, 74:15, 75:3, 80:20, 81:7, 81:14, 87:22, 96:20, 103:24, 103:25, 107:2, 107:13, 107:18, 113:3, 114:11, 114:17, 114:18, 118:13, 118:14, 118:24, 119:19, 120:7, 120:10, 120:21, 120:23, 121:1, 121:9, 121:11, 122:6, 122:7, 122:8, 127:18, 129:5, 129:23, 131:2, 131:9, 131:11, 131:12, 131:13, 132:11, 132:12, 132:17, 132:20, 132:21, 133:7, 134:16, 134:25, 135:1, 136:5, 140:17, 141:7, 141:25, 142:2, 142:14, 143:19, 143:22, 144:18, 144:23, 145:21, 145:22, 145:25, 146:9, 146:22, 148:14, 148:15, 148:16, 149:10, 149:12, 149:23, 149:25, 150:5, 150:7, 150:10, 151:1, 151:3, 153:1, 154:14

**Golfo** [1] - 90:6

**gone** [2] - 125:23, 130:24

**Gonzales** [5] - 23:25, 47:5, 47:10, 47:24, 48:1

**Gonzalez** [10] - 24:4, 24:8, 24:18, 47:6, 47:16, 95:24, 96:18, 100:2, 101:15, 122:24

**Gonzalez's** [3] - 24:22, 24:24, 25:2

**good** [20] - 5:14, 12:7, 38:1, 41:14, 47:13, 50:25, 62:15, 78:5, 96:6, 97:1, 97:21, 103:23, 110:9, 113:2, 128:8, 131:4, 132:19, 136:2, 144:10, 144:16  
**got** [35] - 41:13, 49:15, 50:22, 56:4, 64:23, 67:25, 71:21, 73:14, 75:24, 76:13, 87:5, 87:7, 88:16, 92:25, 93:4, 94:11, 94:17, 95:17, 99:10, 115:5, 120:6, 120:19, 122:3, 124:2, 128:25, 129:25, 131:21, 131:22, 132:15, 133:15, 135:3, 135:8, 139:2, 146:1, 149:22

**gotten** [2] - 94:18, 126:8

**GOVERNMENT** [1] - 1:14

**government** [67] - 4:8, 7:17, 7:22, 7:25, 9:5, 9:6, 11:14, 12:6, 15:21, 15:22, 16:10, 16:24, 19:1, 21:17, 21:21, 23:3, 29:3, 29:4, 29:7, 30:17, 31:23, 33:11, 34:23, 37:21, 57:24, 58:10, 59:12, 79:20, 80:17, 87:17, 95:15, 107:8, 109:7, 112:23, 114:14, 114:15, 114:22, 115:20, 116:15, 116:18, 116:19, 118:3, 119:2, 119:3, 120:7, 121:6, 121:8, 122:7, 124:3, 126:15, 127:6, 127:17, 128:1, 128:2, 128:12, 129:7, 129:9, 129:13, 131:21, 131:23, 133:14, 135:25, 139:14, 144:17, 147:10, 150:14

**government's** [11] - 8:6, 8:9, 59:16, 84:13, 86:1, 107:11, 109:25, 113:7, 122:10, 134:9, 137:2

**Government's** [1] - 147:11

**grab** [6] - 51:25, 52:4, 52:23, 53:22, 53:24, 144:23

**grabbed** [3] - 58:8, 58:23, 82:5

**graduated** [1] - 107:1

**grams** [2] - 36:21

**grand** [1] - 7:7

**Grande** [12] - 13:20, 27:23, 28:1, 39:13, 40:6, 47:7, 68:22, 71:4, 78:2, 106:1, 142:5, 142:8

**grazed** [1] - 50:18

**great** [5] - 15:16, 16:15, 78:4, 110:11, 117:14

**greater** [2] - 10:18, 15:8

**greed** [3] - 38:4, 45:10, 46:13

**grew** [1] - 110:3

**Gringo** [60] - 38:9, 39:10, 40:3, 40:4, 40:11, 40:24, 40:25, 41:3, 41:19, 41:21, 42:8, 46:18, 47:4, 47:7, 47:10, 48:14, 48:23, 50:24, 51:3, 62:19, 63:8, 63:9, 64:6, 64:7, 70:2, 70:9, 82:22, 84:4, 84:6, 89:8, 89:9, 89:10, 90:17, 90:20, 93:23, 95:22, 96:3, 97:14, 97:16, 99:24, 101:17, 101:18, 101:21, 102:3, 102:7, 102:9, 102:11, 102:18, 102:19, 102:20, 102:24, 103:2, 111:15, 121:16, 121:18, 121:23, 122:24

**Gringo's** [2] - 55:16, 56:8

**group** [7] - 38:10, 38:22, 46:24, 50:14, 51:22, 82:7, 94:6

**grow** [1] - 126:17

**Guadalupe** [3] - 24:24, 25:2, 27:24

**Guero** [2] - 105:21, 105:23

**Guerra** [12] - 9:1, 22:22, 23:7, 25:12, 25:24, 26:1, 37:4, 38:14, 51:14, 52:19, 54:22, 55:13

**Guerrero** [26] - 9:4, 24:9, 24:19, 25:4, 26:10, 26:12, 26:14, 26:18, 26:23, 27:1, 27:6, 27:12, 27:18, 27:22, 27:25, 30:10, 30:20, 30:22, 30:24, 31:1, 31:24, 37:9, 38:17, 55:6, 84:16, 140:21

**guess** [9] - 42:11, 48:15, 49:5, 71:5, 123:22, 137:25, 147:10, 147:18, 153:17

**guide** [1] - 35:2

**guilt** [9] - 7:11, 8:7, 8:10, 11:14, 16:19, 17:3, 61:13, 65:7, 126:24

**guilty** [51] - 7:18, 7:20, 7:21, 7:23, 16:13, 16:19, 16:25, 17:18, 17:20, 18:25, 22:14, 22:17, 23:2, 30:1, 30:5, 30:16, 32:1, 33:4, 33:5, 33:10, 34:6, 34:7, 34:24, 35:7, 36:2, 36:3, 36:6, 36:10, 37:4, 37:5, 37:8, 37:9, 57:15, 57:19, 80:5, 80:9, 80:10, 80:11, 81:22, 81:24, 82:2, 84:22, 128:23, 128:24, 129:2, 136:24

**Gulf** [14] - 38:12, 45:13, 48:10, 48:13, 60:13, 73:1, 89:2, 90:5, 97:10, 100:6, 110:4, 112:10, 120:2, 142:23

**gunpoint** [1] - 83:1

**guns** [1] - 52:4

**Gutierrez** [3] - 42:23, 68:21, 149:7

**guy** [35] - 41:2, 42:1, 42:24, 43:17, 44:3, 44:10, 46:23, 47:5, 47:22, 49:7, 51:1, 52:12, 52:13, 54:1, 54:2, 55:21, 58:22, 59:5, 60:4, 60:17, 62:13, 63:2, 64:1, 64:3, 66:13, 67:24, 68:3, 68:7, 97:25, 122:17, 122:23, 127:2, 127:3

**guys** [22] - 46:19, 51:4, 51:12, 51:15, 51:18, 51:23, 51:24, 52:2, 52:3, 52:5, 53:13, 55:12, 59:11, 63:3, 68:21, 81:1, 89:12, 96:8, 121:22, 149:11, 153:2

## H

**had** [83] - 11:24, 12:18, 13:21, 14:9, 14:18, 20:18, 21:14, 28:25, 32:15, 33:23, 42:8, 42:16, 45:8, 50:24, 53:4, 53:5, 54:17, 54:24, 55:23, 55:24, 58:20, 58:24, 59:4, 60:1, 60:4, 60:21, 60:22, 60:23, 64:17, 66:6, 67:4, 68:23, 69:16, 70:10, 72:4, 75:13, 76:14, 77:6, 78:12, 78:18, 85:13, 86:9, 86:16, 89:15, 91:13, 93:10, 97:18, 97:19, 98:1, 98:3, 98:25, 99:1, 99:2, 99:16, 101:8, 102:12, 102:15, 102:20, 105:10, 105:14, 106:13, 107:24, 109:15, 110:6, 110:18, 110:22, 111:8, 117:7, 117:23, 118:24, 119:25, 121:23, 122:25, 123:24, 124:4, 124:25, 128:10, 132:7, 133:11, 134:24, 135:13, 141:25, 151:16

**hadn't** [1] - 87:8

**hairs** [1] - 120:7

**half** [3] - 52:19, 67:13, 119:18

**half-truths** [1] - 67:13

**halfway** [1] - 61:14

**hand** [3] - 88:16, 88:19, 110:19

**handcuffed** [2] - 26:10, 38:18

**handed** [1] - 52:1

**handgun** [1] - 55:25

**handling** [1] - 65:3

**hands** [7] - 43:9, 43:20, 45:14, 47:14, 55:12, 70:9, 106:2

**HANEN** [1] - 1:10

**happen** [6] - 42:20, 96:24, 99:20, 110:13, 140:24, 144:22

**happened** [26] - 6:11, 42:21, 58:7, 60:20, 64:5, 65:18, 69:3, 82:20, 89:10, 89:22, 92:16, 92:18, 92:20, 104:9, 105:12, 110:13, 114:13, 129:5, 134:21, 134:22, 136:5, 136:19, 136:22, 137:8, 140:24, 145:8

**happening** [3] - 66:18, 96:25, 107:4

**happens** [11] - 22:9, 29:20, 42:24, 43:17, 45:11, 46:18, 51:3, 54:17, 57:12, 60:12, 133:4

**hard** [33] - 72:21, 73:14, 73:16, 75:11, 75:22, 76:9, 78:9, 93:15, 93:17, 93:18, 93:20, 95:5, 104:21, 113:25, 124:13, 125:19, 127:19, 128:13, 130:10, 130:20, 130:21, 130:22, 131:17,

133:14, 134:8, 134:12, 134:14, 135:20,  
137:1, 143:16, 147:21, 150:23

**hard-working** [1] - 72:21

**harder** [2] - 87:11, 147:24

**has** [90] - 4:8, 4:22, 5:2, 5:3, 5:23, 7:8,  
7:17, 7:22, 11:14, 13:8, 14:25, 15:11,  
15:13, 15:22, 16:6, 16:9, 16:18, 16:22,  
16:24, 19:1, 20:4, 20:8, 20:13, 20:20,  
22:8, 23:3, 28:9, 29:19, 30:17, 33:11,  
34:24, 35:4, 35:9, 36:20, 38:13, 38:15,  
38:16, 39:2, 43:3, 43:20, 48:10, 50:3,  
54:16, 54:19, 62:6, 65:7, 65:8, 66:6,  
66:16, 68:16, 71:18, 74:8, 75:4, 78:3,  
78:4, 81:16, 84:1, 84:20, 85:14, 86:25,  
88:23, 90:25, 94:24, 95:15, 98:7, 98:9,  
102:14, 102:17, 104:1, 106:10, 107:4,  
107:21, 109:11, 109:23, 110:3, 112:19,  
115:7, 115:24, 116:19, 119:3, 121:8,  
124:18, 125:4, 127:14, 129:13, 130:12,  
134:17, 135:1, 143:3, 150:4

**have** [264] - 4:6, 4:9, 5:2, 5:20, 6:14,  
7:1, 7:3, 9:5, 9:25, 10:4, 10:5, 10:6,  
10:9, 10:20, 11:12, 12:3, 12:4, 12:5,  
12:7, 12:9, 12:17, 13:12, 14:23, 18:2,  
21:24, 22:4, 22:5, 22:18, 29:10, 29:15,  
29:16, 30:5, 34:9, 35:18, 36:17, 37:14,  
37:16, 39:6, 41:11, 42:24, 45:14, 47:14,  
47:19, 48:15, 50:7, 50:25, 51:23, 53:2,  
53:24, 54:17, 57:6, 57:20, 57:21, 60:8,  
61:1, 61:4, 61:5, 62:8, 62:12, 62:16,  
62:21, 62:22, 65:2, 65:5, 66:2, 67:9,  
67:10, 68:17, 68:24, 70:20, 70:24, 71:9,  
71:23, 71:24, 72:1, 72:20, 73:17, 73:21,  
74:24, 75:9, 75:24, 76:9, 76:10, 78:5,  
78:9, 80:9, 80:16, 80:17, 81:10, 81:11,  
81:12, 81:15, 81:17, 82:4, 82:5, 82:6,  
82:8, 82:9, 83:12, 83:20, 84:13, 84:18,  
85:6, 85:20, 86:2, 86:7, 86:19, 86:20,  
87:13, 87:14, 87:20, 87:23, 87:24,  
88:18, 88:25, 89:14, 89:15, 89:18,  
89:23, 90:20, 92:14, 92:22, 93:21, 94:8,  
94:25, 95:5, 96:21, 96:25, 100:4, 100:7,  
100:12, 101:12, 102:22, 103:3, 103:8,  
103:13, 104:8, 105:5, 105:8, 105:9,  
105:11, 106:12, 106:15, 106:17,  
106:18, 106:19, 107:7, 107:8, 107:23,  
107:24, 107:25, 108:1, 108:25, 109:14,  
109:20, 109:25, 110:6, 110:10, 110:25,  
111:16, 111:23, 111:25, 112:1, 112:15,  
112:23, 113:18, 113:23, 114:2, 115:8,  
115:10, 115:16, 116:12, 116:13,  
116:14, 116:20, 117:6, 117:19, 117:20,  
118:6, 118:7, 119:9, 119:14, 122:11,  
122:13, 123:1, 123:10, 124:11, 124:23,  
124:24, 125:8, 125:9, 125:10, 125:12,  
126:2, 126:8, 127:20, 127:23, 128:12,  
129:8, 129:15, 129:16, 130:2, 131:18,  
131:23, 135:25, 137:7, 137:12, 137:15,  
138:14, 138:23, 139:17, 140:2, 141:11,  
141:22, 143:14, 144:10, 144:12,  
144:17, 145:7, 145:14, 146:11, 146:13,

146:24, 147:1, 147:11, 147:13, 148:4,  
148:9, 148:13, 148:23, 148:24, 148:25,  
149:12, 149:17, 149:24, 150:11,  
150:22, 150:23, 150:25, 151:1, 151:9,  
151:15, 151:16, 151:17, 151:19,  
152:25, 153:15, 153:24, 154:6, 154:13  
**haven't** [5] - 106:24, 107:18, 115:18,  
131:24, 147:20

**having** [8] - 55:25, 65:23, 107:3,  
109:25, 124:18, 126:9, 147:22, 152:1

**He** [2] - 58:25, 62:11

**he** [491] - 12:8, 13:17, 13:21, 24:5,  
31:24, 31:25, 38:21, 39:2, 39:13, 39:14,  
39:15, 39:22, 40:3, 41:4, 41:7, 41:8,  
41:13, 41:18, 41:23, 41:24, 42:1, 42:7,  
42:9, 42:13, 42:16, 42:17, 42:18, 43:3,  
43:6, 43:7, 43:8, 43:13, 43:15, 43:16,  
43:17, 43:21, 44:10, 44:14, 44:19,  
44:20, 44:21, 44:22, 44:24, 44:25, 45:3,  
45:8, 45:11, 45:22, 46:1, 46:9, 46:19,  
46:23, 46:25, 47:21, 48:4, 48:7, 48:9,  
48:25, 49:4, 49:13, 49:14, 49:16, 49:20,  
49:22, 50:3, 50:17, 50:18, 50:22, 50:24,  
51:2, 51:7, 51:9, 51:10, 52:8, 52:11,  
52:12, 52:15, 52:16, 52:17, 53:3, 53:4,  
53:9, 54:8, 54:9, 54:12, 54:13, 54:16,  
54:23, 55:3, 55:7, 55:10, 55:11, 55:12,  
55:14, 55:15, 55:16, 55:20, 55:23,  
55:25, 56:2, 56:3, 56:6, 58:9, 58:16,  
58:17, 58:25, 59:2, 59:3, 59:4, 59:6,  
59:8, 60:1, 60:22, 60:23, 61:16, 62:3,  
62:6, 62:23, 63:9, 63:12, 63:13, 63:20,  
64:3, 64:7, 64:11, 64:17, 64:18, 64:24,  
65:3, 65:7, 65:8, 66:4, 66:5, 66:6,  
66:10, 66:11, 66:12, 66:21, 66:22,  
66:23, 66:24, 67:1, 67:5, 67:8, 67:18,  
67:19, 67:22, 67:23, 67:24, 68:3, 68:7,  
68:10, 68:14, 68:15, 69:2, 69:10, 69:11,  
69:12, 69:22, 70:8, 70:13, 70:16, 70:17,  
70:23, 70:24, 71:6, 71:11, 71:12, 71:15,  
71:17, 71:18, 72:1, 72:4, 72:9, 72:11,  
72:13, 72:14, 72:18, 72:19, 72:22,  
72:23, 72:25, 73:4, 73:6, 73:9, 73:12,  
73:13, 73:17, 73:19, 73:24, 74:4, 76:2,  
80:11, 80:22, 81:22, 82:5, 82:6, 82:10,  
82:14, 82:15, 82:21, 82:24, 82:25, 83:1,  
83:2, 83:4, 83:18, 83:21, 83:23, 84:21,  
84:22, 86:11, 86:23, 86:24, 87:3, 87:8,  
89:8, 89:15, 90:19, 91:1, 91:9, 91:12,  
91:14, 91:15, 91:17, 91:23, 92:1, 92:12,  
92:16, 92:19, 92:20, 92:21, 92:24,  
92:25, 93:3, 93:8, 93:9, 93:20, 94:3,  
94:11, 94:16, 94:17, 94:22, 94:25, 95:3,  
95:13, 96:6, 96:7, 97:7, 97:8, 97:16,  
97:17, 97:21, 97:25, 98:1, 98:4, 98:6,  
98:7, 98:11, 98:12, 98:13, 98:18, 98:23,  
98:24, 99:6, 99:13, 99:14, 99:16, 99:17,  
99:23, 100:12, 100:15, 100:18, 100:19,  
100:20, 100:23, 101:3, 101:14, 101:20,  
101:22, 102:1, 102:6, 102:9, 102:10,  
102:11, 102:14, 102:15, 102:20, 103:1,

103:9, 103:15, 103:17, 103:18, 103:21,  
104:2, 104:4, 104:14, 104:18, 104:24,  
105:16, 105:21, 105:22, 105:23, 106:1,  
106:4, 106:5, 106:7, 106:10, 106:11,  
106:12, 106:14, 107:4, 107:22, 108:2,  
108:3, 108:11, 108:18, 108:19, 108:25,  
110:1, 110:21, 110:22, 112:9, 112:13,  
114:5, 114:6, 114:23, 115:2, 115:24,  
115:25, 116:1, 116:16, 117:1, 117:6,  
117:7, 117:13, 117:16, 117:22, 117:25,  
118:10, 118:13, 118:14, 118:19,  
118:20, 119:16, 119:18, 119:19,  
119:24, 119:25, 120:1, 120:7, 120:9,  
120:11, 120:14, 120:15, 120:16,  
120:19, 120:23, 120:24, 121:5, 121:6,  
121:8, 121:11, 121:12, 121:16, 121:17,  
121:20, 121:24, 122:5, 122:16, 122:17,  
122:19, 123:3, 123:4, 123:5, 123:12,  
123:13, 123:14, 123:16, 123:22,  
123:23, 124:2, 124:5, 124:8, 124:12,  
125:2, 125:3, 125:6, 127:3, 127:14,  
134:23, 135:4, 135:7, 136:1, 138:3,  
138:6, 138:7, 138:8, 138:9, 139:2,  
139:13, 139:15, 139:18, 139:20,  
139:23, 140:9, 141:18, 141:20, 142:4,  
142:7, 142:12, 142:15, 143:1, 143:2,  
143:7, 143:10, 149:4

**he'll** [1] - 41:6

**he's** [122] - 5:9, 40:3, 40:5, 40:6, 41:18,  
42:23, 43:20, 44:1, 44:20, 45:21, 45:22,  
45:24, 46:1, 46:2, 46:5, 46:6, 46:24,  
47:5, 47:7, 47:22, 48:21, 49:2, 49:15,  
49:20, 50:13, 50:16, 50:17, 52:7, 52:8,  
52:9, 52:16, 53:18, 54:11, 54:12, 54:15,  
54:22, 55:24, 58:23, 60:9, 61:16, 62:13,  
62:14, 63:2, 63:15, 63:23, 65:23, 66:1,  
66:12, 66:13, 66:21, 67:3, 67:8, 68:8,  
71:3, 71:14, 71:21, 72:15, 72:18, 72:22,  
72:25, 73:5, 73:6, 80:13, 94:14, 98:1,  
100:6, 101:6, 103:25, 104:18, 105:4,  
105:16, 105:21, 106:3, 107:25, 108:22,  
108:23, 110:4, 115:3, 115:5, 117:2,  
117:3, 117:10, 118:8, 118:9, 120:5,  
120:6, 120:7, 120:16, 120:19, 120:25,  
121:1, 121:11, 121:14, 121:15, 122:6,  
122:20, 123:17, 123:18, 124:1, 124:2,  
124:17, 127:15, 128:23, 135:17,  
139:19, 140:1, 142:11, 142:13, 142:14,  
142:16

**He's** [1] - 118:9

**head** [2] - 53:10, 62:20

**heads** [2] - 90:12, 151:3

**hear** [26] - 5:2, 5:3, 12:8, 42:22, 47:11,  
54:25, 64:16, 75:15, 85:2, 95:15, 98:16,  
99:3, 99:9, 99:10, 103:6, 103:11,  
104:11, 105:18, 105:20, 106:10, 107:9,  
107:20, 114:18

**HEARD** [1] - 1:10

**heard** [60] - 7:3, 12:17, 13:12, 39:5,  
39:8, 39:12, 40:20, 41:21, 41:23, 44:19,

44:24, 45:18, 45:20, 46:18, 46:24,  
48:24, 49:13, 52:4, 52:6, 55:1, 55:10,  
59:20, 62:17, 66:5, 68:17, 75:9, 77:17,  
83:10, 85:17, 86:13, 90:12, 90:22,  
90:23, 93:6, 93:20, 95:24, 96:17, 97:6,  
97:11, 99:16, 101:20, 104:6, 105:2,  
107:11, 109:13, 112:6, 112:13, 115:3,  
116:7, 118:25, 120:20, 121:21, 125:24,  
128:25, 133:16, 143:14, 143:15, 148:7,  
154:18

**hearing** [3] - 38:7, 46:21, 124:6

**heavy** [1] - 8:6

**heck** [2] - 119:15, 119:19

**Hector** [10] - 24:15, 24:18, 25:6, 25:12,  
26:21, 46:25, 54:5, 114:22, 114:23,  
149:3

**Hector's** [2] - 93:1, 93:3

**held** [3] - 32:17, 82:21, 82:22

**help** [22] - 12:13, 40:25, 43:4, 62:5,  
62:7, 63:13, 67:6, 68:8, 70:1, 70:6,  
74:3, 75:4, 75:20, 79:18, 80:2, 80:4,  
80:7, 82:1, 82:14, 108:18, 132:21

**helped** [7] - 54:4, 54:8, 55:3, 59:7,  
64:21, 82:7, 124:24

**helpful** [2] - 9:17, 54:24

**helping** [6] - 54:12, 99:14, 108:24,  
115:16, 117:10, 118:9

**helps** [2] - 43:6, 55:13

**her** [43] - 32:7, 70:1, 70:2, 70:5, 70:6,  
72:6, 74:7, 75:3, 75:5, 75:13, 76:13,  
77:2, 77:10, 78:2, 78:4, 78:19, 78:20,  
78:23, 78:24, 79:17, 79:19, 88:15,  
88:20, 93:14, 100:11, 110:19, 114:10,  
114:11, 118:24, 118:25, 119:14,  
119:15, 119:18, 119:19, 126:25,  
145:10, 145:24, 148:14

**here** [78] - 4:17, 5:9, 16:24, 35:3,  
58:16, 61:11, 61:18, 61:22, 62:3, 62:14,  
62:16, 62:21, 62:24, 63:3, 63:22, 65:15,  
67:4, 67:5, 67:10, 72:24, 80:22, 82:3,  
83:3, 86:9, 86:20, 87:5, 87:25, 89:17,  
90:1, 90:14, 92:23, 93:14, 96:1, 97:23,  
99:23, 107:4, 108:20, 109:1, 110:18,  
111:8, 112:24, 113:9, 115:8, 115:24,  
123:16, 123:18, 124:11, 126:16,  
126:25, 127:15, 128:3, 130:14, 131:15,  
131:18, 132:8, 135:13, 136:7, 137:23,  
138:6, 139:5, 139:10, 141:11, 144:8,  
144:9, 145:18, 146:24, 149:12, 149:15,  
150:4, 151:4, 152:6, 152:7, 154:6,  
154:7, 154:10, 154:23

**Here** [1] - 54:18

**here's** [3] - 67:10, 67:11, 121:2

**hereby** [1] - 155:6

**hereto** [1] - 23:19

**Hernandad** [2] - 96:1, 110:17

**Hernandez** [21] - 12:25, 24:15, 24:18,  
25:7, 25:12, 26:22, 27:4, 27:7, 46:25,  
54:6, 55:10, 91:19, 91:25, 102:2,  
114:22, 116:12, 117:1, 121:13, 140:6,

140:7

**Hernandez's** [2] - 27:22, 149:3

**hers** [1] - 70:5

**hesitate** [6] - 34:16, 103:16, 132:11,  
132:12, 132:23, 132:24

**hesitation** [8] - 8:16, 103:14, 128:18,  
132:5, 132:8, 132:17, 133:14

**hey** [8] - 44:1, 62:4, 62:21, 63:20,  
67:25, 69:16, 71:8, 130:13

**Hey** [3] - 47:4, 60:11, 61:16

**Hi** [1] - 93:1

**Hidalgo** [1] - 13:23

**hidden** [1] - 70:10

**hide** [1] - 44:22

**high** [18] - 40:21, 45:13, 56:19, 56:20,  
59:24, 59:25, 60:5, 60:11, 60:15, 60:17,  
86:16, 97:7, 132:2, 133:2, 133:5,  
141:16, 142:22

**high-falutin'** [1] - 132:2

**high-level** [2] - 56:20, 60:15

**high-ranking** [2] - 45:13, 60:11

**higher** [2] - 52:2, 53:13

**higher-level** [2] - 52:2, 53:13

**highest** [1] - 112:10

**highest-ranking** [1] - 112:10

**him** [154] - 21:14, 24:4, 25:13, 28:25,  
32:6, 39:15, 41:16, 42:2, 43:4, 43:9,  
44:4, 44:11, 47:23, 49:5, 49:9, 49:15,  
49:24, 49:25, 50:3, 50:15, 50:18, 50:19,  
50:21, 50:22, 51:9, 51:10, 52:10, 52:11,  
53:11, 53:22, 55:16, 55:18, 55:19,  
55:25, 56:7, 57:3, 58:8, 59:4, 60:1,  
60:5, 60:6, 60:14, 60:23, 62:14, 62:19,  
62:22, 64:3, 64:12, 64:23, 65:4, 66:17,  
67:8, 67:25, 68:1, 68:2, 68:15, 68:25,  
69:16, 70:14, 72:4, 72:24, 73:20, 74:3,  
75:4, 76:13, 81:23, 83:21, 83:23, 84:17,  
84:22, 86:25, 87:1, 87:2, 92:8, 92:10,  
92:13, 92:15, 93:3, 94:12, 94:20, 94:21,  
94:25, 96:6, 98:1, 99:2, 100:9, 101:3,  
101:23, 101:24, 101:25, 103:11, 104:3,  
104:4, 104:5, 105:18, 105:20, 105:22,  
106:2, 108:24, 111:11, 115:5, 115:7,  
117:4, 117:5, 117:7, 117:9, 117:12,  
117:14, 117:15, 118:9, 120:3, 120:4,  
120:5, 120:6, 120:15, 120:17, 120:25,  
121:4, 121:5, 122:7, 122:9, 122:13,  
122:21, 123:24, 124:3, 125:7, 125:14,  
126:19, 128:7, 132:16, 134:6, 135:18,  
139:2, 139:20, 139:21, 142:9, 143:1,  
143:2

**himself** [12] - 32:5, 32:19, 39:1, 40:3,  
50:13, 55:8, 60:11, 66:5, 67:6, 69:2,  
74:19, 81:11

**his** [129] - 12:14, 30:24, 31:8, 31:9,  
32:7, 38:17, 40:21, 43:2, 43:20, 45:3,  
45:20, 46:16, 46:19, 49:2, 49:4, 49:15,  
50:3, 50:16, 51:10, 54:16, 55:17, 55:25,  
56:6, 56:7, 59:4, 59:21, 60:2, 60:3,  
60:23, 63:22, 64:7, 64:16, 65:3, 65:5,

65:7, 65:8, 66:8, 68:16, 69:14, 70:9,  
70:14, 72:5, 72:6, 72:11, 72:23, 73:4,  
73:8, 73:12, 74:5, 79:16, 82:24, 84:16,  
84:18, 84:21, 86:25, 87:1, 87:2, 87:10,  
87:11, 87:21, 87:22, 88:16, 88:18,  
89:24, 90:17, 93:24, 94:3, 94:5, 94:6,  
94:7, 94:23, 94:24, 95:12, 96:5, 96:8,  
97:24, 97:25, 98:4, 99:2, 99:11, 100:8,  
100:12, 103:12, 103:16, 103:17,  
103:18, 104:10, 105:1, 106:5, 106:13,  
107:3, 107:21, 107:22, 108:1, 109:1,  
109:21, 110:6, 110:21, 111:10, 112:8,  
112:10, 112:19, 115:6, 115:21, 115:22,  
119:15, 119:25, 121:1, 121:9, 121:10,  
125:17, 126:16, 127:11, 127:13, 128:8,  
138:7, 139:2, 139:17, 141:1, 141:7,  
141:16, 141:20, 141:24, 142:7, 142:9,  
142:23

**historical** [5] - 56:15, 103:23, 134:16,  
134:17, 135:23

**History** [1] - 45:1

**history** [3] - 86:19, 87:5, 127:12

**hit** [4] - 38:10, 38:20, 46:20, 64:21

**hold** [5] - 31:7, 64:18, 124:14, 129:6,  
148:16

**holder** [2] - 44:14, 44:15

**holds** [1] - 32:13

**hole** [1] - 64:18

**holes** [2] - 64:16, 64:17

**holiday** [1] - 74:21

**Hollywood** [3] - 46:5, 77:25, 78:7

**home** [5] - 145:3, 149:14, 149:16,  
150:5, 150:6

**honest** [3] - 12:3, 34:18, 58:12

**honestly** [2] - 111:18

**honesty** [1] - 98:21

**Honor** [15] - 4:9, 37:22, 129:15,  
133:23, 134:3, 145:14, 146:3, 147:11,  
148:10, 150:14, 152:14, 153:9, 153:15,  
154:25, 155:1

**HONORABLE** [1] - 1:10

**hook** [1] - 47:4

**Hooters** [1] - 39:16

**hopefully** [3] - 85:14, 134:4, 150:10

**horrible** [2] - 136:6, 141:4

**horses** [1] - 99:7

**hour** [2] - 38:19, 75:25

**hours** [7] - 50:5, 73:23, 73:25, 76:16,  
119:17, 119:18, 145:2

**house** [28] - 24:1, 43:8, 45:22, 45:23,  
45:24, 45:25, 48:16, 48:17, 48:18,  
48:21, 49:24, 50:20, 50:21, 53:1, 53:12,  
54:12, 55:21, 59:3, 77:7, 77:12, 77:13,  
77:18, 78:18, 88:13, 139:17, 142:15

**houses** [1] - 64:17

**HOUSTON** [2] - 1:2, 1:5

**Houston** [11] - 1:17, 2:7, 40:13, 40:16,  
40:18, 40:19, 41:8, 94:12, 95:18, 95:22,  
99:10

**how** [59] - 6:5, 11:24, 12:17, 25:18,

25:21, 34:4, 35:16, 38:5, 45:6, 46:3,  
48:11, 52:18, 52:20, 58:7, 65:1, 68:2,  
69:19, 71:9, 71:15, 71:22, 72:19, 74:24,  
76:18, 84:7, 89:21, 94:17, 96:14, 97:9,  
105:21, 107:17, 109:10, 111:8, 115:7,  
117:22, 118:2, 119:8, 119:9, 121:3,  
121:4, 125:25, 126:10, 126:20, 127:16,  
129:11, 129:15, 130:6, 131:21, 136:22,  
137:18, 137:19, 138:3, 139:10, 139:11,  
141:22, 146:18

**however** [4] - 9:20, 11:17, 14:1, 17:11

**HPD** [1] - 134:18

**human** [1] - 137:18

**hundred** [7] - 36:24, 36:25, 40:7, 40:8,  
42:15, 42:18, 74:20

**hung** [1] - 55:22

**Husak** [1] - 69:6

**husband** [5] - 75:3, 76:12, 77:2,  
117:21, 117:24

**hyperbolic** [1] - 88:1

**hypothetical** [1] - 129:20

## I

**I** [368] - 4:1, 4:2, 4:16, 4:17, 4:19, 4:25,  
5:2, 5:17, 6:3, 6:7, 6:13, 6:16, 6:19,  
9:10, 9:23, 10:4, 10:5, 10:6, 10:9,  
11:13, 12:1, 16:2, 17:25, 35:13, 37:14,  
37:22, 38:3, 39:4, 39:7, 39:20, 40:4,  
40:12, 40:25, 41:4, 41:12, 41:16, 41:18,  
42:6, 44:4, 44:9, 44:11, 44:25, 47:23,  
51:9, 52:13, 55:15, 55:16, 55:17, 55:18,  
55:19, 55:20, 58:16, 58:25, 59:9, 59:10,  
59:23, 61:12, 61:16, 61:17, 61:22,  
61:23, 62:9, 62:11, 62:14, 62:16, 62:21,  
62:22, 63:3, 64:3, 64:6, 64:9, 64:13,  
64:22, 64:23, 65:10, 65:12, 65:14, 66:8,  
67:9, 67:10, 67:24, 67:25, 68:4, 68:10,  
69:12, 69:16, 69:18, 69:22, 69:23,  
69:25, 70:2, 70:4, 70:5, 70:24, 71:25,  
72:7, 72:12, 72:14, 74:1, 74:15, 74:16,  
75:13, 75:16, 76:19, 76:20, 77:6, 77:10,  
77:12, 77:20, 78:16, 78:19, 79:8, 80:7,  
80:15, 85:7, 85:17, 86:4, 86:6, 86:10,  
86:12, 86:14, 86:15, 87:5, 87:6, 87:7,  
87:9, 88:6, 88:11, 88:13, 89:3, 90:3,  
91:17, 92:1, 92:10, 92:13, 92:15, 92:18,  
92:20, 93:15, 94:1, 94:2, 94:16, 94:19,  
95:3, 95:6, 96:5, 96:17, 96:20, 97:3,  
97:7, 97:8, 97:9, 97:13, 98:18, 98:20,  
98:21, 99:4, 99:5, 99:7, 99:8, 100:4,  
100:7, 100:11, 101:2, 101:3, 101:12,  
101:22, 102:10, 102:13, 102:15, 103:8,  
103:10, 104:5, 105:8, 105:19, 105:21,  
106:15, 106:16, 106:18, 106:19,  
107:13, 107:14, 107:18, 108:4, 108:15,  
108:21, 109:1, 109:2, 109:3, 109:9,  
109:10, 109:12, 109:13, 109:18,  
110:14, 110:16, 110:18, 110:20, 113:6,  
113:24, 115:7, 115:18, 116:3, 116:5,

117:11, 117:12, 117:14, 118:9, 118:22,  
118:24, 119:3, 119:17, 119:25, 120:10,  
120:17, 121:17, 121:20, 122:1, 122:2,  
122:3, 122:4, 123:22, 123:23, 124:3,  
124:8, 124:25, 127:1, 127:3, 127:4,  
128:7, 129:15, 130:6, 130:11, 130:19,  
130:24, 131:3, 131:13, 131:14, 132:7,  
133:18, 133:23, 133:24, 134:1, 134:2,  
134:4, 134:12, 135:2, 135:3, 136:3,  
137:2, 137:5, 137:21, 137:23, 137:25,  
138:4, 138:10, 138:15, 138:16, 138:21,  
138:23, 139:8, 139:20, 140:4, 141:2,  
141:5, 141:10, 141:13, 141:21, 141:22,  
141:25, 142:1, 142:2, 142:16, 143:5,  
143:23, 144:9, 145:1, 145:19, 145:20,  
145:25, 146:3, 146:6, 146:14, 146:18,  
146:22, 147:9, 147:10, 147:17, 148:6,  
148:7, 148:9, 148:14, 148:15, 148:18,  
149:10, 149:15, 149:17, 149:18, 150:4,  
150:7, 150:22, 150:24, 150:25, 151:6,  
151:8, 151:24, 152:7, 152:8, 152:18,  
152:19, 153:3, 153:5, 153:17, 154:18,  
155:5

**I'd** [5] - 60:13, 69:9, 130:10, 130:19

**I'll** [19] - 6:8, 41:11, 42:9, 42:12, 47:16,  
49:6, 50:4, 51:12, 61:24, 64:9, 80:8,  
124:7, 129:2, 129:19, 146:24, 148:25,  
150:25, 154:13

**I'm** [54] - 4:22, 4:23, 5:1, 5:5, 5:22,  
34:4, 42:10, 50:3, 61:7, 63:22, 63:23,  
65:12, 67:9, 69:25, 70:6, 72:14, 85:13,  
87:6, 90:16, 90:24, 92:16, 93:1, 93:3,  
107:9, 113:2, 120:10, 124:3, 129:5,  
131:13, 132:11, 132:12, 132:17, 133:7,  
139:7, 141:4, 143:22, 144:18, 144:23,  
146:4, 146:5, 146:9, 146:12, 146:14,  
146:24, 147:4, 148:15, 148:16, 149:25,  
150:5, 150:9, 151:1, 151:3, 154:9,  
154:22

**I've** [13] - 41:13, 74:1, 86:15, 86:16,  
88:16, 91:4, 94:18, 130:11, 144:21,  
144:25, 145:21, 149:22, 153:18

**I-35** [1] - 119:19

**idea** [11] - 70:24, 104:1, 104:8, 106:18,  
106:20, 109:18, 109:22, 137:11,  
139:18, 140:1, 140:16

**identified** [4] - 91:24, 101:10, 122:21,  
124:19

**identify** [15] - 46:21, 49:5, 57:21, 92:3,  
94:14, 95:1, 104:3, 104:4, 106:9,  
123:12, 123:13, 123:15, 133:10,  
146:19, 147:6

**identifying** [1] - 93:2

**identities** [2] - 21:10, 28:20

**if** [126] - 4:18, 7:23, 9:25, 10:10, 10:14,  
13:8, 13:25, 14:5, 14:14, 17:20, 20:12,  
20:14, 20:17, 21:10, 22:12, 22:13,  
22:15, 24:4, 28:22, 29:24, 29:25, 30:2,  
32:11, 32:12, 33:23, 34:12, 34:17,  
35:11, 36:3, 36:6, 37:16, 47:11, 47:19,

47:22, 54:25, 55:1, 57:18, 58:13, 59:12,  
61:9, 62:1, 62:4, 62:7, 62:23, 66:12,  
66:21, 68:1, 71:14, 74:11, 80:3, 80:7,  
80:13, 82:1, 82:15, 87:22, 88:5, 89:7,  
94:2, 95:11, 96:5, 96:6, 98:7, 98:16,  
98:21, 99:1, 99:2, 99:19, 100:3, 100:4,  
100:6, 100:10, 101:25, 103:15, 104:1,  
104:8, 104:14, 105:9, 106:15, 106:22,  
108:15, 110:10, 112:1, 112:14, 112:18,  
114:7, 114:12, 114:18, 115:13, 117:20,  
117:23, 117:25, 118:5, 118:17, 119:9,  
119:14, 119:25, 120:5, 122:11, 124:24,  
125:4, 125:6, 125:15, 125:17, 127:17,  
128:24, 130:7, 132:25, 133:4, 135:12,  
137:11, 138:6, 144:22, 145:5, 146:23,  
147:1, 147:5, 148:16, 152:6

**ignite** [2] - 106:14, 149:9

**ignore** [1] - 129:9

**illegal** [2] - 66:18, 66:23

**illness** [1] - 129:22

**illustrate** [1] - 61:12

**illustrates** [1] - 77:15

**imagine** [1] - 120:6

**immunity** [1] - 15:6

**immunized** [1] - 15:14

**impartial** [3] - 8:12, 34:14, 128:14

**implicate** [3] - 52:7, 98:13, 124:20

**implicated** [3] - 93:7, 99:16, 139:24

**implicating** [1] - 110:14

**implore** [1] - 116:3

**important** [18] - 5:3, 8:17, 11:21,  
11:24, 81:21, 89:20, 96:6, 116:5, 119:6,  
119:10, 126:20, 127:21, 128:18,  
129:18, 131:10, 132:1, 132:5, 132:25

**importantly** [1] - 117:11

**imposes** [1] - 17:12

**impossible** [2] - 110:2, 111:11

**impress** [2] - 12:2, 60:19

**impression** [1] - 10:19

**improperly** [1] - 128:21

**in** [545] - 4:19, 5:2, 5:7, 5:21, 5:22, 6:3,  
6:4, 6:9, 6:11, 6:24, 7:15, 8:13, 8:16,  
8:19, 9:8, 9:11, 9:18, 9:20, 9:22, 10:7,  
10:10, 11:7, 11:9, 11:10, 11:15, 11:22,  
12:1, 12:4, 12:15, 12:25, 13:9, 13:14,  
13:18, 13:20, 13:23, 13:25, 14:1, 14:5,  
14:6, 14:10, 14:15, 14:16, 14:20, 14:25,  
15:12, 15:15, 15:21, 15:24, 16:7, 16:8,  
16:13, 16:21, 17:2, 17:5, 17:6, 17:11,  
17:12, 17:15, 17:22, 17:25, 18:10,  
18:19, 19:8, 19:25, 20:1, 20:5, 20:7,  
20:10, 20:21, 20:25, 21:6, 21:12, 21:22,  
22:1, 22:9, 22:11, 22:16, 23:11, 23:16,  
23:18, 23:23, 24:1, 25:15, 26:4, 26:15,  
27:22, 28:3, 28:6, 28:14, 28:17, 28:23,  
29:8, 29:12, 29:20, 29:24, 30:4, 30:12,  
30:15, 31:1, 31:4, 31:9, 31:13, 31:24,  
32:7, 32:8, 32:16, 32:19, 32:20, 33:3,  
33:6, 33:8, 33:13, 33:17, 33:25, 34:1,  
34:12, 35:3, 35:5, 35:9, 35:13, 35:14,

35:15, 36:18, 37:17, 38:6, 39:10, 40:2, 40:3, 40:5, 40:6, 40:7, 40:9, 40:12, 40:24, 41:22, 42:13, 42:14, 43:17, 43:23, 43:24, 43:25, 44:2, 44:6, 44:14, 45:7, 45:12, 45:15, 45:20, 45:23, 45:24, 46:1, 46:5, 46:6, 46:9, 47:8, 50:25, 51:9, 51:19, 51:21, 52:3, 52:7, 52:8, 52:9, 52:10, 52:16, 52:21, 53:8, 54:3, 54:9, 54:22, 54:25, 55:1, 55:8, 55:12, 55:13, 55:15, 55:16, 55:25, 56:13, 56:22, 57:10, 57:20, 58:8, 58:16, 59:2, 59:5, 59:9, 59:19, 59:22, 60:5, 60:6, 60:7, 60:21, 61:3, 61:4, 61:21, 62:18, 63:9, 63:10, 63:18, 64:15, 64:17, 64:18, 65:18, 65:22, 66:6, 66:18, 68:12, 68:15, 68:18, 68:22, 68:25, 69:16, 69:17, 69:22, 69:23, 69:24, 70:2, 70:6, 70:7, 70:10, 70:12, 70:18, 70:19, 71:4, 71:12, 71:18, 71:21, 72:6, 72:24, 72:25, 73:1, 73:7, 73:9, 73:13, 73:19, 75:8, 75:9, 75:18, 75:19, 76:1, 77:7, 77:8, 77:11, 77:19, 77:20, 78:1, 78:2, 78:3, 78:16, 78:17, 78:18, 78:19, 78:21, 78:23, 79:1, 79:7, 79:8, 79:10, 79:15, 79:16, 80:5, 80:9, 80:13, 82:12, 82:13, 83:10, 83:15, 83:23, 84:1, 84:3, 84:8, 84:18, 84:21, 85:9, 85:24, 86:9, 86:13, 86:16, 86:21, 87:15, 87:18, 87:24, 88:5, 88:11, 88:13, 88:15, 88:19, 88:23, 89:9, 89:20, 89:24, 90:5, 90:8, 90:9, 90:14, 90:16, 90:20, 90:23, 91:1, 91:4, 91:6, 93:7, 93:8, 93:9, 93:10, 93:17, 93:18, 93:22, 94:9, 94:10, 94:14, 94:23, 95:14, 95:19, 95:25, 96:9, 96:13, 96:21, 97:7, 97:23, 98:10, 98:19, 98:20, 99:2, 99:13, 99:17, 99:20, 99:23, 100:6, 100:8, 100:9, 100:20, 100:21, 101:9, 101:23, 101:24, 102:14, 102:23, 103:1, 103:4, 103:15, 104:12, 104:19, 105:2, 105:8, 105:10, 105:14, 105:18, 105:25, 106:3, 106:4, 106:5, 106:12, 107:4, 107:11, 107:20, 108:2, 108:15, 109:1, 109:15, 110:3, 110:4, 110:17, 110:18, 110:20, 111:4, 111:10, 111:15, 111:22, 112:7, 112:9, 112:13, 113:10, 113:13, 113:20, 113:21, 113:22, 114:5, 114:6, 114:16, 114:23, 115:2, 115:3, 115:16, 115:22, 115:24, 116:14, 116:17, 116:18, 116:25, 117:2, 117:11, 118:7, 118:16, 119:6, 119:15, 119:18, 120:7, 120:20, 120:21, 121:13, 121:15, 121:21, 121:22, 121:24, 121:25, 122:17, 123:2, 123:3, 123:14, 123:16, 123:18, 123:19, 123:20, 123:23, 124:11, 124:12, 124:19, 124:20, 125:13, 125:20, 125:22, 126:16, 126:24, 127:6, 127:9, 127:14, 128:11, 128:15, 128:18, 130:1, 130:3, 130:4, 130:7, 130:16, 131:8, 131:9, 131:10, 132:5, 132:6, 132:14, 132:21, 132:24, 133:7, 133:8, 133:11, 133:17, 134:4, 134:15, 134:16, 135:4,

135:12, 135:16, 136:7, 136:10, 136:16, 136:19, 137:10, 137:22, 138:3, 138:8, 138:10, 138:17, 138:22, 139:20, 140:3, 140:9, 140:14, 140:19, 140:25, 141:7, 141:18, 141:22, 142:2, 142:3, 142:14, 142:23, 142:25, 143:9, 143:10, 143:20, 143:25, 144:8, 145:3, 145:17, 145:20, 145:22, 146:10, 146:13, 146:19, 146:22, 146:25, 147:7, 147:16, 148:11, 148:16, 148:21, 149:25, 150:5, 150:10, 150:17, 150:24, 151:3, 151:12, 152:2, 152:11, 153:14, 154:4, 154:21, 154:23, 155:7  
**In** [2] - 4:22, 57:13  
**incarcerated** [1] - 122:25  
**incentive** [1] - 133:11  
**included** [1] - 89:9  
**includes** [1] - 31:17  
**including** [6] - 8:3, 9:12, 16:9, 31:20, 31:21, 71:19  
**income** [1] - 77:10  
**inconsistent** [2] - 12:22, 13:5  
**independent** [3] - 10:13, 10:15, 144:21  
**INDEX** [1] - 3:1  
**Indiana** [3] - 43:12, 104:23, 106:6  
**indicate** [1] - 127:13  
**indicating** [1] - 11:1  
**indication** [2] - 117:7, 117:8  
**Indictment** [1] - 23:23  
**indictment** [33] - 7:6, 7:7, 7:9, 7:10, 7:11, 8:18, 9:9, 13:14, 14:1, 14:7, 14:11, 14:16, 14:21, 17:3, 17:16, 18:4, 21:22, 22:11, 22:17, 22:21, 23:16, 23:19, 29:8, 29:24, 30:4, 30:8, 34:8, 35:7, 35:18, 51:20, 99:21, 121:25  
**indictments** [2] - 7:3, 7:4  
**indirectly** [2] - 19:4, 23:6  
**indisputable** [1] - 130:23  
**individual** [3] - 18:17, 18:21, 112:22  
**individuals** [3] - 13:25, 119:5, 139:23  
**inferences** [2] - 9:19, 11:8  
**infighting** [1] - 90:8  
**inflections** [1] - 108:16  
**influence** [2] - 6:24, 130:6  
**influenced** [1] - 10:16  
**inform** [1] - 35:9  
**informant** [7] - 15:5, 102:17, 109:4, 111:20, 120:4, 120:13, 120:15  
**informants** [1] - 91:6  
**information** [20] - 47:19, 66:17, 67:1, 67:8, 68:18, 77:14, 79:4, 103:20, 103:23, 105:13, 107:13, 107:25, 117:4, 121:4, 121:5, 125:21, 135:9, 139:15, 140:10, 140:15  
**informed** [1] - 150:22  
**initially** [1] - 141:21  
**injects** [1] - 66:5  
**injuries** [1] - 51:11  
**innocence** [3] - 7:13, 17:4, 126:24  
**innocent** [3] - 7:12, 7:16, 129:4

**insanely** [1] - 95:13  
**inside** [5] - 26:12, 43:11, 44:16, 48:21, 59:3  
**inspected** [1] - 13:22  
**instead** [1] - 67:3  
**institution** [1] - 132:15  
**instruct** [1] - 150:6  
**instructed** [2] - 47:18, 66:16  
**instruction** [2] - 6:15, 37:16  
**instructions** [28] - 5:17, 6:4, 6:5, 10:8, 18:1, 20:2, 20:21, 20:25, 28:6, 31:4, 31:13, 33:6, 34:3, 34:4, 35:19, 37:13, 57:17, 66:22, 143:15, 144:1, 144:19, 144:21, 144:24, 145:9, 146:23, 149:4, 152:2, 154:19  
**instrumental** [2] - 114:23, 117:11  
**insulate** [1] - 56:21  
**intended** [2] - 51:13, 102:6  
**intent** [22] - 8:22, 14:10, 14:19, 18:5, 18:11, 18:14, 18:16, 18:22, 19:4, 19:9, 19:22, 19:23, 21:1, 23:12, 28:11, 31:14, 32:13, 32:20, 33:8, 33:22, 89:1, 89:15  
**intention** [2] - 20:8, 127:14  
**intentionally** [5] - 20:22, 21:12, 28:7, 28:23, 31:5  
**interaction** [2] - 13:21, 92:14  
**interest** [5] - 12:4, 15:12, 19:25, 116:14, 130:3  
**interested** [4] - 68:1, 105:2, 120:20, 120:21  
**interests** [2] - 22:6, 29:16  
**interim** [1] - 110:21  
**international** [1] - 83:4  
**internet** [2] - 130:11, 131:4  
**interpret** [1] - 151:17  
**interpretation** [1] - 9:21  
**interrogate** [2] - 48:15, 49:25  
**interrogated** [3] - 38:18, 48:21, 82:22  
**interrogation** [3] - 48:18, 48:25, 49:1  
**interrogatories** [4] - 4:6, 8:4, 36:5, 36:8  
**Interrogatory** [1] - 36:15  
**interrogatory** [1] - 4:6  
**interstate** [4] - 30:12, 31:2, 31:25, 83:3  
**interviewed** [10] - 79:1, 95:19, 98:11, 98:12, 121:15, 121:25, 122:19, 123:5, 123:13, 123:18  
**into** [36] - 15:22, 16:9, 16:22, 21:18, 29:5, 36:19, 38:19, 38:20, 41:23, 48:6, 48:7, 48:8, 48:25, 49:2, 54:16, 55:18, 61:11, 61:24, 63:13, 66:5, 88:18, 89:4, 90:1, 90:2, 93:25, 98:9, 114:25, 116:19, 117:3, 126:2, 126:3, 136:9, 136:13, 151:19, 154:11  
**introduced** [2] - 24:18, 105:22  
**invested** [1] - 96:9  
**investigate** [6] - 24:13, 24:16, 46:19, 52:2, 54:8, 80:12  
**investigates** [1] - 58:4  
**investigating** [3] - 56:15, 123:8,

134:19

**investigation** <sup>[10]</sup> - 76:3, 91:2, 93:19, 95:22, 96:2, 109:11, 109:24, 140:13, 140:19, 140:20

**investigations** <sup>[1]</sup> - 135:23

**investigative** <sup>[1]</sup> - 93:6

**involuntariness** <sup>[1]</sup> - 31:9

**involved** <sup>[50]</sup> - 19:12, 19:18, 36:18, 38:6, 39:1, 40:2, 43:25, 44:2, 45:7, 46:9, 52:10, 52:11, 58:6, 58:9, 63:18, 66:6, 68:11, 70:20, 72:25, 73:1, 73:3, 73:7, 80:14, 83:13, 102:8, 102:23, 105:2, 106:12, 106:23, 107:23, 109:15, 110:17, 113:10, 114:5, 120:2, 121:14, 122:4, 122:17, 123:20, 124:12, 125:3, 125:22, 126:14, 136:16, 138:10, 138:21, 138:22, 139:2, 141:9, 142:25

**involvement** <sup>[3]</sup> - 58:12, 59:22, 60:1

**involving** <sup>[2]</sup> - 13:13, 18:1

**irony** <sup>[5]</sup> - 79:22, 79:23, 80:13, 114:8, 114:14

**irrelevant** <sup>[1]</sup> - 94:19

**IRS** <sup>[4]</sup> - 77:10, 77:11, 77:14, 110:16

**is** <sup>[475]</sup> - 4:23, 5:7, 5:15, 5:22, 5:23, 5:24, 6:1, 6:11, 6:12, 6:18, 6:21, 7:6, 7:7, 7:11, 7:12, 7:15, 7:20, 8:6, 8:9, 8:11, 8:14, 9:10, 9:16, 9:20, 9:22, 10:23, 10:25, 11:1, 11:13, 12:16, 12:22, 13:3, 13:9, 14:24, 15:3, 15:16, 16:6, 16:7, 16:10, 16:14, 16:19, 16:25, 17:1, 17:15, 17:20, 18:10, 18:12, 19:9, 20:1, 20:5, 20:10, 20:14, 20:15, 20:16, 20:24, 21:2, 21:4, 21:6, 21:13, 22:3, 23:12, 23:19, 25:8, 25:9, 27:13, 28:5, 28:12, 28:14, 28:17, 28:24, 29:14, 31:3, 31:10, 31:12, 31:15, 32:2, 32:10, 32:11, 32:18, 32:23, 34:6, 34:11, 34:23, 35:1, 35:19, 35:21, 36:14, 37:20, 38:4, 38:25, 39:13, 40:2, 40:21, 41:2, 41:21, 42:2, 42:22, 43:1, 43:5, 43:11, 43:24, 43:25, 44:17, 44:18, 45:19, 46:13, 46:23, 47:7, 47:13, 47:18, 48:20, 48:22, 48:24, 48:25, 49:3, 49:16, 49:17, 49:18, 49:20, 50:14, 50:20, 51:11, 52:6, 53:18, 54:2, 55:6, 56:7, 56:13, 56:20, 57:1, 57:10, 57:13, 57:14, 57:16, 58:13, 59:20, 59:21, 60:7, 60:10, 60:25, 61:3, 61:15, 62:1, 62:4, 62:6, 62:16, 62:21, 62:22, 63:1, 63:2, 63:5, 63:7, 64:1, 64:21, 64:22, 64:25, 65:1, 65:6, 65:8, 65:21, 65:25, 66:20, 66:23, 66:24, 67:4, 67:10, 69:23, 70:1, 70:8, 70:13, 70:19, 70:25, 71:3, 71:17, 72:8, 72:10, 72:21, 72:22, 73:8, 73:16, 73:19, 73:23, 74:5, 74:14, 75:1, 76:9, 77:11, 77:15, 77:16, 78:1, 78:2, 78:15, 78:22, 79:4, 79:9, 79:18, 79:23, 79:25, 80:1, 80:22, 80:24, 81:5, 81:6, 81:13, 81:18, 81:22, 82:14, 83:6, 83:7, 83:15, 84:9, 84:22, 85:9, 87:10, 88:10, 89:3, 89:19, 90:2, 90:6, 90:10, 90:19, 90:23,

91:3, 91:5, 91:10, 91:20, 91:21, 91:25, 92:21, 93:7, 93:9, 93:13, 93:17, 93:23, 93:24, 95:9, 95:10, 95:12, 95:13, 95:18, 96:1, 96:6, 96:25, 97:3, 98:10, 98:12, 99:8, 99:13, 99:14, 99:17, 99:24, 99:25, 100:14, 100:15, 101:3, 101:6, 101:16, 101:17, 102:14, 102:15, 103:1, 103:10, 103:23, 104:2, 104:8, 104:10, 104:13, 104:21, 104:25, 105:2, 105:4, 105:19, 106:11, 106:15, 107:2, 107:12, 107:16, 107:17, 107:23, 108:4, 108:5, 108:7, 108:11, 108:15, 108:18, 109:5, 109:8, 109:9, 109:10, 109:22, 110:11, 110:12, 110:16, 110:22, 110:25, 111:9, 111:15, 111:20, 112:1, 112:5, 112:9, 113:3, 113:9, 113:18, 113:25, 114:8, 114:10, 114:14, 114:15, 115:6, 115:12, 115:22, 115:23, 116:3, 116:5, 117:8, 117:10, 117:13, 117:17, 118:1, 118:8, 118:16, 118:17, 119:4, 119:6, 119:15, 119:17, 119:21, 120:12, 120:15, 120:23, 121:9, 121:10, 121:13, 121:16, 121:18, 121:25, 122:5, 122:6, 122:7, 122:9, 122:11, 122:13, 122:15, 123:3, 123:4, 123:5, 124:5, 124:13, 125:7, 125:20, 125:22, 126:5, 126:7, 126:10, 126:15, 126:16, 126:19, 126:20, 126:24, 127:6, 127:22, 127:24, 128:6, 128:13, 128:16, 129:12, 129:18, 129:21, 130:21, 131:10, 131:18, 131:25, 132:19, 132:21, 132:22, 133:4, 134:5, 134:8, 134:9, 134:18, 134:19, 134:20, 134:25, 135:22, 136:12, 137:11, 137:23, 137:25, 138:1, 138:2, 138:13, 138:17, 139:1, 139:3, 139:4, 139:6, 139:16, 139:25, 140:3, 140:18, 140:25, 141:6, 141:8, 141:9, 141:17, 141:18, 142:9, 142:22, 142:23, 143:7, 143:8, 143:9, 143:10, 143:11, 143:23, 145:1, 145:6, 146:10, 146:16, 146:24, 147:5, 147:11, 147:12, 147:17, 148:4, 148:14, 148:21, 149:6, 149:10, 149:15, 149:18, 149:20, 149:23, 150:4, 150:23, 150:25, 151:4, 151:23, 152:7, 153:2, 153:12, 153:21, 154:7, 154:10, 154:11, 155:6

**isn't** <sup>[6]</sup> - 63:5, 66:24, 67:1, 69:17, 100:6, 150:8

**issue** <sup>[1]</sup> - 4:7

**issue** <sup>[5]</sup> - 38:25, 80:22, 147:10, 148:9, 148:12

**issued** <sup>[1]</sup> - 7:6

**issues** <sup>[1]</sup> - 10:7

**IT** <sup>[1]</sup> - 85:14

**it** <sup>[303]</sup> - 4:12, 5:18, 5:23, 6:1, 6:12, 6:18, 6:19, 6:21, 7:23, 7:25, 8:6, 8:9, 8:16, 9:10, 9:20, 11:13, 13:9, 13:10, 14:2, 14:25, 15:2, 15:3, 16:2, 16:6, 17:17, 17:20, 17:22, 18:7, 18:22, 20:6, 20:11, 21:6, 21:23, 22:12, 22:13, 22:24, 28:14, 28:17, 29:9, 29:24, 29:25, 30:11,

30:14, 32:2, 32:18, 32:20, 34:6, 34:11, 35:13, 37:14, 37:24, 38:2, 40:7, 40:10, 41:7, 41:8, 41:10, 41:11, 42:14, 42:16, 42:17, 42:19, 43:4, 43:12, 43:16, 43:17, 43:20, 43:21, 44:8, 44:13, 44:14, 44:16, 44:17, 45:17, 46:2, 47:14, 48:10, 49:7, 54:16, 54:19, 55:2, 56:15, 56:16, 57:11, 58:7, 59:8, 61:18, 61:22, 61:23, 61:24, 62:3, 62:8, 62:9, 62:11, 62:12, 62:19, 62:23, 62:24, 65:8, 67:5, 68:2, 68:19, 69:1, 69:17, 70:16, 71:9, 71:12, 71:23, 71:24, 72:5, 73:2, 74:16, 74:22, 75:15, 75:19, 77:6, 77:15, 77:20, 77:21, 79:23, 80:12, 80:13, 80:22, 81:12, 81:16, 81:17, 84:9, 84:22, 85:18, 85:19, 86:4, 86:15, 87:8, 87:23, 88:3, 88:6, 88:7, 88:8, 88:20, 90:15, 91:13, 91:15, 91:16, 92:18, 92:19, 93:5, 93:25, 94:12, 95:18, 96:15, 96:24, 97:3, 97:4, 97:5, 97:14, 97:15, 97:16, 97:19, 97:25, 98:16, 98:17, 98:23, 98:24, 99:1, 99:2, 99:3, 99:6, 99:11, 100:4, 101:13, 101:14, 101:18, 101:19, 103:6, 103:14, 103:16, 104:5, 105:15, 106:4, 106:5, 106:8, 107:10, 107:17, 108:7, 109:3, 109:4, 109:8, 110:1, 110:12, 110:13, 110:14, 111:25, 112:15, 112:24, 114:8, 115:18, 116:2, 116:8, 116:9, 116:11, 118:13, 118:17, 118:18, 119:19, 120:10, 120:11, 122:6, 123:10, 124:3, 125:1, 125:3, 125:7, 125:9, 125:14, 125:15, 126:10, 126:19, 128:8, 128:18, 129:5, 129:11, 130:12, 131:7, 131:23, 131:24, 132:3, 132:24, 132:25, 134:6, 135:5, 135:17, 136:1, 136:7, 136:22, 137:18, 138:16, 138:17, 139:10, 139:11, 139:22, 141:7, 141:22, 142:1, 142:2, 142:3, 144:20, 145:11, 146:5, 146:18, 147:19, 147:21, 148:16, 149:18, 149:21, 150:2, 151:1, 151:11, 151:14, 151:19, 152:16, 152:19, 152:22, 153:5, 154:5, 154:7, 154:8, 154:12, 154:13, 154:15, 154:17

**It** <sup>[1]</sup> - 94:17

**it's** <sup>[107]</sup> - 5:9, 5:10, 36:19, 36:23, 37:3, 37:19, 39:23, 41:14, 41:15, 43:12, 43:13, 45:10, 45:11, 46:3, 47:13, 47:25, 48:13, 50:10, 50:11, 50:25, 59:20, 61:2, 61:3, 64:15, 65:17, 66:4, 71:7, 71:9, 73:13, 83:8, 84:5, 84:8, 84:15, 85:25, 86:1, 87:11, 87:12, 88:6, 90:6, 94:6, 96:5, 96:6, 96:8, 96:25, 100:7, 102:24, 103:19, 105:1, 108:9, 109:6, 109:10, 109:15, 109:18, 110:2, 110:4, 111:11, 112:14, 112:16, 112:17, 114:1, 116:22, 126:20, 127:16, 127:17, 132:1, 132:2, 132:20, 134:13, 134:14, 134:19, 135:19, 136:3, 136:5, 136:14, 140:5, 140:6, 141:3, 142:6, 142:13, 142:14, 142:15, 143:16, 145:2, 147:16, 147:18, 150:1, 150:3, 151:11, 151:12, 152:7,



152:8, 152:15, 153:20  
**its** [6] - 19:9, 23:12, 31:20, 31:21, 33:8, 47:12  
**itself** [1] - 67:12

## J

**J** [1] - 1:14  
**Jack** [1] - 51:9  
**jail** [1] - 115:4  
**janitor** [2] - 109:20, 110:3  
**January** [3] - 90:9, 90:16  
**Jesus** [18] - 23:25, 24:4, 24:8, 24:17, 24:21, 47:5, 47:6, 47:10, 47:16, 47:18, 47:21, 47:24, 48:1, 59:6, 76:7, 100:21, 122:24, 122:25  
**Joanna** [2] - 78:14, 114:8  
**Joanna's** [1] - 119:13  
**job** [11] - 11:13, 11:21, 12:16, 78:5, 80:15, 90:2, 96:8, 98:12, 99:8, 126:20, 128:11  
**Joe** [1] - 40:2  
**Joey** [4] - 39:24, 40:9, 40:14, 40:16  
**John** [1] - 143:6  
**join** [3] - 21:5, 28:15, 150:16  
**joined** [2] - 19:8, 23:11  
**joins** [3] - 21:12, 28:23, 32:12  
**joint** [3] - 20:12, 20:15, 32:8  
**jointly** [1] - 20:19  
**Jose** [11] - 26:9, 26:11, 27:21, 27:24, 39:12, 39:13, 40:1, 40:11, 94:9, 123:22  
**jose** [1] - 83:18  
**Juan** [14] - 41:24, 42:24, 43:2, 43:6, 43:8, 68:20, 100:25, 104:24, 105:17, 105:24, 105:25, 106:4, 106:15, 106:23  
**Juana** [1] - 92:2  
**Juarez** [1] - 70:6  
**JUDGE** [1] - 1:11  
**Judge** [12] - 4:13, 46:8, 56:24, 57:5, 57:9, 72:17, 81:6, 81:24, 85:16, 143:18, 148:2, 154:1  
**judge** [2] - 6:5, 122:12  
**judges** [6] - 5:22, 6:10, 11:19, 34:22  
**judgments** [1] - 11:22  
**Judy** [3] - 78:25, 79:7, 100:25  
**JUNE** [1] - 1:7  
**June** [4] - 4:3, 71:11, 78:11, 135:4  
**jurisdiction** [1] - 68:23  
**juror** [4] - 5:9, 10:19, 129:2, 129:3  
**JUROR** [4] - 144:11, 144:13, 144:15, 145:13  
**jurors** [8] - 6:10, 7:1, 10:16, 10:17, 34:15, 34:20, 144:23, 145:7  
**jury** [36] - 4:8, 4:9, 4:19, 5:3, 5:11, 5:12, 5:21, 5:23, 7:7, 7:17, 15:7, 15:10, 34:25, 35:16, 35:24, 37:2, 37:7, 38:1, 57:17, 61:4, 71:10, 85:4, 85:5, 85:10, 85:11, 118:15, 127:24, 143:14, 143:23, 144:5, 144:6, 150:18, 150:19, 152:4, 152:5

**Jury** [3] - 3:3, 3:8, 143:20  
**JURY** [1] - 1:9  
**just** [102] - 4:16, 17:9, 28:14, 32:15, 42:8, 42:20, 42:24, 45:3, 45:12, 52:18, 52:21, 54:1, 56:3, 56:24, 57:5, 57:8, 57:9, 57:13, 57:15, 57:16, 57:18, 57:20, 57:21, 58:13, 58:14, 59:14, 60:9, 60:17, 60:24, 61:8, 64:10, 65:10, 65:12, 65:25, 66:13, 66:22, 69:12, 70:6, 70:16, 71:8, 71:13, 74:25, 77:15, 77:23, 78:3, 78:6, 78:11, 80:16, 81:10, 81:15, 81:16, 82:6, 82:18, 83:3, 83:7, 83:8, 83:21, 83:22, 84:6, 88:7, 89:11, 92:15, 92:18, 92:19, 104:4, 106:2, 108:16, 115:10, 117:2, 118:2, 119:13, 119:18, 122:1, 122:2, 122:20, 124:3, 125:9, 125:20, 126:3, 126:13, 126:23, 129:20, 131:2, 132:2, 134:5, 135:17, 135:19, 137:5, 138:2, 138:13, 142:8, 144:9, 145:22, 146:6, 152:9, 152:24, 154:14, 154:23  
**justified** [1] - 11:9

## K

**Kathy** [1] - 149:22  
**keep** [8] - 4:20, 5:1, 15:15, 16:13, 31:8, 50:6, 115:10, 144:18  
**kept** [1] - 76:16  
**key** [1] - 46:23  
**kid** [2] - 49:15, 110:2  
**kidnap** [13] - 8:25, 22:22, 25:24, 26:1, 30:12, 31:7, 37:3, 38:7, 54:5, 80:24, 100:16, 136:14, 138:22  
**kidnapped** [6] - 30:20, 30:21, 30:24, 38:17, 82:16, 82:17  
**kidnapping** [54] - 9:3, 22:25, 23:7, 26:18, 26:22, 26:25, 27:5, 27:11, 27:18, 30:9, 30:10, 32:2, 37:8, 38:6, 38:11, 38:14, 38:16, 46:13, 51:18, 52:10, 55:19, 56:15, 68:12, 68:13, 70:19, 70:24, 73:24, 77:9, 79:5, 80:8, 81:19, 82:9, 82:18, 84:18, 102:6, 113:1, 113:3, 113:5, 113:10, 114:6, 115:23, 115:25, 122:3, 122:5, 122:16, 122:17, 122:22, 123:20, 124:20, 125:15, 126:10, 135:5, 135:25, 143:2  
**kidnappings** [3] - 25:19, 25:22, 64:22  
**kids** [1] - 113:12  
**kill** [10] - 50:19, 86:14, 113:11, 120:25, 127:1, 127:4, 136:14, 141:3, 141:5  
**killed** [16] - 39:11, 41:22, 47:15, 63:9, 64:6, 86:10, 86:11, 86:12, 90:13, 93:24, 97:16, 102:19, 103:9, 107:16, 121:23, 127:1  
**killing** [2] - 90:14, 90:15  
**kilogram** [1] - 25:4  
**kilograms** [19] - 19:12, 19:14, 19:18, 19:20, 24:1, 24:5, 24:9, 25:6, 25:13, 36:20, 36:21, 36:24, 36:25, 40:17, 46:15, 67:23, 83:13, 83:21

**kilos** [18] - 41:5, 41:7, 42:18, 43:9, 44:4, 49:12, 49:14, 49:16, 49:22, 58:4, 60:22, 67:25, 68:5, 83:17, 83:19, 83:21, 83:22, 83:23  
**kind** [18] - 21:6, 28:17, 46:24, 52:21, 55:22, 61:14, 98:22, 98:23, 98:24, 98:25, 99:5, 116:3, 122:2, 125:18, 134:5, 134:12, 135:19  
**kinds** [1] - 20:2  
**knew** [14] - 19:6, 19:16, 23:9, 31:24, 36:17, 55:16, 72:4, 72:11, 78:22, 81:2, 118:4, 121:23, 138:6, 140:21  
**know** [134] - 4:20, 35:20, 37:14, 39:4, 39:24, 40:1, 40:22, 41:16, 41:18, 44:1, 44:6, 44:8, 45:16, 47:11, 49:20, 52:13, 55:15, 55:17, 56:6, 56:10, 58:1, 58:16, 59:9, 59:17, 61:14, 63:17, 64:5, 64:22, 64:23, 64:25, 65:22, 67:24, 68:15, 69:18, 69:19, 69:21, 71:8, 72:22, 72:25, 74:15, 75:11, 75:17, 76:12, 78:8, 78:9, 78:20, 80:23, 81:15, 82:19, 83:22, 84:1, 84:7, 86:4, 87:6, 87:18, 88:5, 92:24, 95:9, 95:10, 95:11, 95:20, 96:5, 96:7, 96:17, 97:3, 97:11, 98:18, 99:1, 101:2, 102:13, 103:10, 103:23, 104:13, 105:1, 105:9, 105:19, 105:21, 106:16, 107:7, 107:20, 109:2, 109:3, 109:10, 109:12, 109:13, 109:18, 110:1, 110:15, 110:16, 110:18, 110:20, 111:21, 112:3, 114:3, 118:17, 121:11, 121:12, 121:20, 122:6, 122:19, 122:21, 123:12, 124:21, 127:3, 130:11, 132:7, 132:9, 132:10, 134:9, 135:1, 136:3, 138:2, 138:4, 138:5, 138:10, 138:21, 141:2, 141:21, 141:22, 141:25, 142:1, 142:12, 144:17, 144:19, 145:24, 149:22, 149:23, 150:2, 150:6  
**knowing** [4] - 21:9, 28:19, 33:1, 68:10  
**knowingly** [11] - 18:17, 20:4, 20:8, 20:20, 21:12, 23:15, 28:5, 28:23, 30:19, 31:3, 80:3  
**knowledge** [12] - 10:24, 14:9, 14:19, 22:3, 22:8, 29:14, 29:19, 32:23, 33:24, 107:4, 107:21, 137:8  
**known** [5] - 19:17, 27:10, 36:17, 111:13, 120:1  
**knows** [17] - 39:12, 39:24, 44:22, 60:17, 63:12, 65:6, 66:12, 67:22, 75:8, 75:18, 76:1, 86:1, 93:9, 120:7, 120:17, 120:19, 125:13

## L

**La** [1] - 101:16  
**ladies** [5] - 5:13, 85:1, 85:12, 143:14, 150:20  
**Lake** [1] - 1:23  
**language** [1] - 132:2  
**Lanie** [4] - 2:4, 149:22, 155:5, 155:9  
**large** [1] - 57:1  
**Las** [1] - 45:23

**last** <sup>[18]</sup> - 4:21, 25:9, 27:10, 27:14, 27:17, 27:20, 38:7, 59:2, 59:9, 61:2, 79:11, 83:6, 112:21, 114:10, 117:15, 118:10, 127:23, 143:19  
**lastly** <sup>[1]</sup> - 139:6  
**late** <sup>[1]</sup> - 143:6  
**Late** <sup>[1]</sup> - 71:2  
**later** <sup>[13]</sup> - 41:15, 43:11, 46:1, 50:4, 60:8, 76:12, 88:4, 129:1, 134:22, 137:16, 139:24, 141:24, 142:6  
**laud** <sup>[1]</sup> - 107:1  
**launder** <sup>[1]</sup> - 113:12  
**laundering** <sup>[1]</sup> - 110:11  
**Laura** <sup>[2]</sup> - 39:18, 39:21  
**law** <sup>[42]</sup> - 6:2, 6:7, 6:13, 6:18, 6:19, 7:12, 10:8, 11:3, 16:7, 17:12, 18:24, 21:2, 21:3, 28:12, 28:13, 30:20, 31:15, 31:16, 32:4, 32:13, 33:9, 37:13, 38:24, 56:21, 56:24, 57:11, 57:17, 71:23, 79:24, 81:4, 82:3, 88:5, 91:3, 94:2, 105:10, 107:2, 120:1, 128:9, 140:14, 143:11  
**Law** <sup>[3]</sup> - 1:19, 1:22, 2:1  
**lawful** <sup>[1]</sup> - 16:6  
**laws** <sup>[2]</sup> - 18:9, 22:25  
**lawyer** <sup>[3]</sup> - 39:3, 114:15, 132:16  
**lawyers** <sup>[9]</sup> - 9:15, 9:16, 9:22, 87:1, 87:18, 94:23, 122:11, 146:15, 147:3  
**lay** <sup>[1]</sup> - 141:13  
**lead** <sup>[2]</sup> - 11:11, 37:20  
**leader** <sup>[3]</sup> - 100:20, 100:21, 121:3  
**leads** <sup>[4]</sup> - 46:13, 46:24, 143:1, 143:2  
**learn** <sup>[2]</sup> - 52:22, 134:22  
**learned** <sup>[10]</sup> - 4:21, 24:5, 90:3, 97:15, 98:3, 101:5, 101:9, 104:18, 114:7, 117:12  
**lease** <sup>[6]</sup> - 46:3, 71:9, 71:11, 78:10, 142:12  
**leasing** <sup>[1]</sup> - 46:2  
**least** <sup>[8]</sup> - 19:12, 19:18, 23:14, 23:16, 76:16, 81:4, 92:7, 126:13  
**leave** <sup>[5]</sup> - 78:8, 92:11, 98:19, 143:5, 144:14  
**leaves** <sup>[3]</sup> - 67:22, 68:7, 68:10  
**leaving** <sup>[1]</sup> - 99:14  
**led** <sup>[1]</sup> - 38:5  
**LEE** <sup>[1]</sup> - 1:7  
**Lee** <sup>[171]</sup> - 18:25, 19:6, 19:8, 19:16, 22:22, 23:2, 23:9, 23:11, 24:21, 25:1, 25:14, 25:17, 25:20, 26:2, 30:9, 30:16, 30:19, 30:21, 30:23, 30:25, 31:24, 32:1, 35:25, 37:3, 37:8, 38:6, 41:3, 41:9, 41:10, 41:14, 43:3, 44:4, 44:7, 52:14, 52:16, 53:3, 53:4, 53:5, 53:7, 54:17, 56:8, 57:1, 58:11, 58:12, 58:16, 62:4, 65:13, 69:6, 85:21, 86:5, 86:7, 86:18, 86:23, 87:9, 89:1, 89:14, 89:23, 91:1, 91:13, 93:7, 93:21, 93:24, 94:8, 94:10, 94:12, 94:14, 94:15, 94:17, 94:19, 95:1, 95:7, 95:17, 95:18, 96:19, 96:21, 97:1,

97:5, 97:23, 98:7, 98:13, 98:19, 98:25, 99:1, 99:4, 99:11, 99:22, 99:25, 100:8, 101:8, 101:11, 101:17, 101:22, 102:3, 102:5, 102:8, 102:20, 103:4, 103:12, 103:20, 104:2, 104:13, 105:2, 105:22, 106:2, 106:11, 106:13, 106:16, 106:25, 107:12, 107:21, 108:4, 108:7, 108:9, 108:15, 108:18, 109:4, 109:6, 109:7, 109:8, 109:25, 110:14, 111:9, 111:18, 112:5, 112:7, 112:9, 112:19, 113:10, 113:16, 113:17, 114:4, 117:2, 117:8, 117:10, 117:13, 117:15, 117:16, 119:12, 119:14, 119:24, 121:2, 121:16, 121:17, 121:18, 122:1, 122:4, 122:22, 123:4, 123:6, 123:14, 123:17, 124:8, 124:12, 124:20, 125:1, 125:6, 125:13, 125:15, 125:22, 126:8, 127:10, 128:22, 132:21, 133:10, 133:11, 135:14, 138:21, 141:13, 143:3, 143:9, 149:8  
**left** <sup>[8]</sup> - 38:25, 67:18, 67:21, 97:1, 97:13, 98:20, 99:23, 115:22  
**leg** <sup>[1]</sup> - 50:18  
**legal** <sup>[2]</sup> - 116:23, 132:2  
**legally** <sup>[2]</sup> - 10:2, 54:16  
**legibly** <sup>[1]</sup> - 117:13  
**legitimately** <sup>[1]</sup> - 125:2  
**less** <sup>[8]</sup> - 7:2, 36:21, 36:24, 36:25, 47:12, 108:6, 134:4  
**lessen** <sup>[1]</sup> - 121:9  
**Let** <sup>[1]</sup> - 47:10  
**let** <sup>[20]</sup> - 4:17, 6:22, 23:21, 45:15, 75:11, 116:1, 126:19, 131:2, 137:1, 139:7, 145:19, 145:24, 146:24, 148:3, 148:25, 149:16, 150:10, 151:5, 153:13, 154:2  
**let's** <sup>[31]</sup> - 39:4, 39:9, 53:21, 53:22, 57:23, 63:19, 66:13, 67:13, 67:20, 71:8, 74:2, 74:6, 74:14, 77:25, 78:14, 81:18, 88:23, 90:1, 107:10, 114:21, 119:12, 119:13, 124:22, 126:19, 129:21, 130:12, 135:12, 141:15, 149:16  
**letter** <sup>[1]</sup> - 94:16  
**letting** <sup>[1]</sup> - 127:6  
**level** <sup>[10]</sup> - 51:22, 52:2, 52:3, 52:5, 53:13, 55:12, 55:18, 56:19, 56:20, 60:15  
**liability** <sup>[1]</sup> - 112:5  
**liar** <sup>[1]</sup> - 79:12  
**liars** <sup>[1]</sup> - 134:10  
**Licea** <sup>[3]</sup> - 24:9, 24:19, 25:4  
**Licea-Guerrero** <sup>[2]</sup> - 24:9, 24:19  
**license** <sup>[2]</sup> - 78:25, 107:3  
**lie** <sup>[9]</sup> - 72:14, 75:1, 105:13, 113:15, 120:14, 137:13, 137:22, 139:4, 139:9  
**lied** <sup>[10]</sup> - 72:1, 72:9, 72:12, 72:14, 79:10, 79:11, 79:18, 79:19, 113:13, 113:14  
**lies** <sup>[3]</sup> - 72:18, 120:9, 140:2  
**life** <sup>[9]</sup> - 69:20, 70:4, 86:25, 88:14, 109:23, 112:19, 113:14, 127:13

**lifestyle** <sup>[1]</sup> - 143:2  
**light** <sup>[1]</sup> - 11:9  
**lightly** <sup>[1]</sup> - 133:6  
**like** <sup>[44]</sup> - 28:14, 42:16, 42:17, 43:21, 52:22, 53:21, 56:13, 56:25, 58:24, 60:14, 63:2, 66:12, 69:9, 74:14, 88:5, 104:2, 108:15, 108:18, 108:19, 109:15, 114:3, 116:10, 116:11, 118:22, 119:6, 122:18, 124:21, 128:5, 128:7, 128:9, 130:5, 130:10, 130:20, 137:5, 149:2, 150:8, 151:12, 151:13, 151:14, 152:16, 154:6, 154:7  
**likes** <sup>[3]</sup> - 45:17, 108:17, 142:13  
**limited** <sup>[3]</sup> - 14:3, 14:11, 14:21  
**Lin** <sup>[1]</sup> - 102:6  
**line** <sup>[4]</sup> - 112:21, 119:22, 137:13, 140:4  
**Line** <sup>[7]</sup> - 152:16, 153:1, 153:7, 153:18, 153:20, 153:23  
**linguist** <sup>[1]</sup> - 108:1  
**list** <sup>[3]</sup> - 23:18, 81:8, 100:17  
**List** <sup>[1]</sup> - 23:22  
**listed** <sup>[2]</sup> - 28:3, 51:19  
**listen** <sup>[10]</sup> - 5:16, 53:7, 61:9, 70:20, 80:8, 87:1, 98:1, 119:13, 128:3  
**listened** <sup>[5]</sup> - 86:25, 97:23, 101:10, 129:7, 147:19  
**listening** <sup>[1]</sup> - 143:11  
**little** <sup>[12]</sup> - 5:18, 42:7, 53:2, 90:1, 99:8, 108:21, 120:6, 126:17, 130:7, 134:20, 136:4, 153:13  
**live** <sup>[3]</sup> - 77:21, 79:8, 136:7  
**lived** <sup>[3]</sup> - 70:2, 75:8, 77:7  
**living** <sup>[15]</sup> - 45:24, 46:5, 75:9, 75:19, 77:8, 77:11, 77:12, 77:18, 78:17, 79:1, 79:15, 112:10, 113:12  
**LNU** <sup>[1]</sup> - 25:9  
**lo** <sup>[2]</sup> - 44:17, 48:13  
**load** <sup>[1]</sup> - 40:16  
**loads** <sup>[2]</sup> - 13:17, 40:15  
**located** <sup>[3]</sup> - 25:15, 26:3, 26:14  
**location** <sup>[1]</sup> - 49:14  
**lock** <sup>[1]</sup> - 104:25  
**long** <sup>[7]</sup> - 9:6, 84:16, 85:13, 106:3, 115:4, 118:14, 118:19  
**longer** <sup>[2]</sup> - 145:9, 153:13  
**look** <sup>[22]</sup> - 61:17, 63:2, 63:19, 95:12, 108:19, 110:10, 116:4, 116:17, 116:23, 125:10, 130:7, 130:24, 134:8, 135:7, 135:21, 137:21, 139:10, 145:20, 150:8, 151:14, 152:6, 152:10  
**looked** <sup>[2]</sup> - 76:20, 88:18  
**looking** <sup>[5]</sup> - 123:11, 136:14, 149:19, 149:23, 151:18  
**looks** <sup>[4]</sup> - 104:2, 108:17, 151:13, 152:16  
**Lopez** <sup>[13]</sup> - 40:20, 40:22, 41:3, 41:7, 41:12, 59:24, 60:4, 60:10, 60:21, 60:24, 67:22, 141:4  
**Lorenzo** <sup>[6]</sup> - 26:9, 26:11, 27:21, 59:6, 123:22

**lot** [23] - 51:10, 59:9, 61:6, 64:18, 69:11, 75:15, 76:5, 80:16, 86:14, 88:12, 88:13, 89:17, 90:24, 93:6, 93:15, 111:1, 113:3, 113:4, 121:14, 129:23, 141:21, 142:11  
**lots** [4] - 54:18, 97:8, 142:24, 143:1  
**loud** [2] - 108:23, 154:12  
**Louisiana** [1] - 1:16  
**love** [2] - 100:11, 135:25  
**loved** [1] - 73:2  
**loves** [5] - 75:3, 77:2, 87:3, 98:1  
**low** [4] - 51:22, 55:12, 55:18, 110:25  
**low-level** [2] - 51:22, 55:12  
**lower** [2] - 52:3, 52:5  
**lower-level** [2] - 52:3, 52:5  
**loyal** [1] - 111:14  
**loyalty** [4] - 97:18, 97:20, 98:4, 103:3  
**lucky** [1] - 50:17  
**Luis** [11] - 12:24, 91:19, 92:6, 92:23, 92:25, 107:24, 108:7, 108:13, 108:18, 108:23  
**Luis'** [1] - 93:4  
**Luis's** [1] - 91:25  
**lump** [1] - 89:12  
**lumped** [1] - 89:4  
**lunch** [4] - 143:23, 145:11, 145:19, 146:1  
**luxury** [1] - 46:6  
**lying** [13] - 58:19, 59:12, 72:8, 113:16, 120:16, 137:2, 137:16, 138:2, 138:13, 138:18, 138:20, 139:6

## M

**M** [4] - 2:4, 4:2, 155:5, 155:9  
**M-3** [2] - 87:6, 87:8  
**M-4** [2] - 87:6, 87:8  
**M-90** [1] - 103:10  
**ma'am** [2] - 86:11, 103:8  
**MacDonald** [11] - 37:23, 84:25, 85:6, 86:1, 89:3, 90:24, 93:13, 94:20, 98:8, 100:2, 110:18  
**MACDONALD** [10] - 1:15, 37:22, 37:24, 85:7, 153:15, 153:17, 153:22, 154:11, 154:16, 155:1  
**MacDonald.....** [1] - 3:5  
**made** [14] - 6:25, 9:15, 16:2, 38:1, 60:7, 65:21, 68:24, 72:10, 91:15, 100:7, 104:3, 104:6, 108:3, 115:18  
**magic** [1] - 132:1  
**magically** [5] - 76:11, 76:14, 111:9, 111:10, 142:7  
**magna** [1] - 107:1  
**mail** [1] - 119:6  
**mailing** [1] - 119:10  
**main** [2] - 37:15, 101:1  
**major** [2] - 62:18, 71:16  
**majority** [1] - 134:15  
**make** [36] - 4:16, 11:10, 17:7, 33:19, 46:7, 48:9, 52:24, 53:1, 62:1, 62:9,

66:18, 67:2, 67:11, 69:2, 80:17, 87:23, 92:16, 92:18, 92:19, 92:21, 100:12, 110:1, 111:11, 119:1, 124:2, 127:18, 127:25, 128:4, 128:10, 137:23, 141:20, 145:20, 146:4, 148:15, 151:3, 151:18  
**makes** [8] - 11:3, 18:7, 22:24, 30:11, 30:14, 61:7, 61:16, 143:1  
**making** [9] - 11:21, 12:1, 17:6, 88:1, 94:25, 117:12, 126:2, 134:11, 142:24  
**MALDONADO** [1] - 2:1  
**Malibu** [3] - 124:25, 125:1, 125:7  
**man** [9] - 64:21, 72:21, 72:22, 93:1, 93:3, 108:13, 112:16, 141:12, 143:7  
**manager** [1] - 107:1  
**MANAGER** [2] - 146:8, 148:24  
**manner** [1] - 13:9  
**many** [5] - 97:9, 113:21, 119:8, 119:9, 149:10  
**Mar** [1] - 78:21  
**March** [2] - 41:22, 90:20  
**marched** [1] - 87:24  
**marijuana** [40] - 13:17, 18:6, 18:12, 18:20, 18:23, 19:5, 19:15, 19:21, 36:12, 36:19, 36:23, 40:13, 40:15, 40:17, 40:18, 41:5, 41:8, 41:9, 41:13, 41:14, 60:23, 61:21, 67:23, 83:8, 83:12, 83:14, 83:17, 84:2, 89:2, 93:25, 94:5, 94:7, 94:11, 95:17, 95:21, 98:6, 98:15, 98:19, 99:10, 100:18  
**Mario** [1] - 101:15  
**mark** [4] - 48:10, 117:7, 152:18, 152:19  
**marked** [1] - 153:18  
**Mars** [1] - 80:6  
**mask** [1] - 103:7  
**masks** [3] - 59:11, 123:24, 124:4  
**mass** [2] - 86:8, 104:9  
**mastermind** [1] - 99:25  
**Mata** [3] - 13:15, 13:17, 14:4  
**match** [3] - 88:11, 99:13, 119:1  
**matched** [1] - 99:3  
**matching** [1] - 59:13  
**material** [1] - 12:20  
**matter** [7] - 12:20, 77:15, 79:24, 80:13, 94:17, 139:8, 155:7  
**Max** [1] - 40:9  
**May** [55] - 9:2, 9:4, 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20, 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25, 26:2, 26:5, 26:7, 26:9, 26:11, 26:13, 26:16, 26:19, 26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:13, 27:14, 27:16, 27:19, 27:21, 27:24, 55:6, 59:3, 70:18, 70:25, 71:2, 73:14, 73:23, 75:23, 76:2, 79:1, 79:6, 79:11, 82:10, 114:5  
**may** [49] - 6:16, 6:23, 10:4, 10:5, 10:9, 10:20, 11:4, 11:10, 12:18, 13:1, 13:3, 13:13, 14:1, 14:7, 14:12, 14:16, 14:22, 14:24, 15:1, 16:12, 17:17, 20:2, 20:12,

20:16, 21:8, 22:4, 22:5, 22:14, 22:18, 28:18, 29:3, 29:15, 30:5, 32:5, 32:17, 33:3, 33:4, 37:24, 72:21, 100:7, 116:17, 123:1, 145:14, 148:13, 148:19, 149:21, 151:22, 152:18  
**maybe** [21] - 68:25, 74:13, 99:4, 99:5, 99:6, 100:13, 101:23, 101:24, 103:6, 110:20, 122:20, 124:21, 137:25, 138:15, 138:16, 138:20, 140:22, 151:13, 152:19  
**McAllen** [8] - 45:23, 77:7, 118:14, 118:19, 119:17, 126:5, 142:5, 142:8  
**me** [64] - 4:17, 5:4, 5:16, 23:21, 29:3, 35:11, 35:16, 37:13, 39:22, 40:18, 41:9, 42:5, 43:2, 47:10, 49:7, 51:4, 51:12, 51:15, 57:16, 60:11, 62:5, 63:4, 64:4, 64:7, 64:8, 65:13, 68:14, 69:12, 76:12, 76:21, 77:19, 79:2, 85:18, 85:23, 86:4, 86:16, 90:9, 92:16, 92:20, 92:21, 93:2, 100:12, 108:18, 116:1, 122:3, 122:4, 123:2, 124:14, 127:4, 129:20, 132:17, 137:1, 138:5, 138:15, 139:7, 141:11, 148:3, 151:5, 153:13, 154:2, 154:6, 154:18, 154:19  
**mean** [11] - 11:17, 74:16, 108:16, 109:3, 129:14, 129:18, 135:2, 135:3, 136:3, 145:25, 149:10  
**meaning** [3] - 18:24, 42:5, 61:24  
**meanings** [1] - 108:2  
**means** [19] - 7:13, 19:23, 20:21, 20:25, 28:6, 28:10, 31:4, 31:7, 31:13, 31:19, 33:21, 33:25, 83:3, 97:15, 97:16, 109:2, 126:22, 132:22, 137:16  
**mechanic** [4] - 24:22, 106:11, 109:20, 141:19  
**mechanical** [1] - 1:24  
**meet** [6] - 47:2, 47:18, 50:9, 53:1, 62:19, 129:13  
**meeting** [6] - 53:2, 60:12, 60:18, 61:15, 65:3, 65:23  
**meetings** [2] - 53:4, 61:1  
**meets** [1] - 51:7  
**Mellado** [1] - 100:19  
**member** [16] - 21:7, 21:8, 22:12, 22:16, 22:18, 28:18, 28:19, 29:25, 30:3, 30:5, 46:23, 80:15, 112:10, 129:21  
**members** [4] - 5:21, 21:24, 29:10, 38:1  
**memo** [1] - 123:23  
**Memorial** [9] - 55:7, 73:10, 74:4, 74:9, 74:13, 74:15, 74:21, 75:13, 78:16  
**memory** [9] - 10:12, 10:19, 12:7, 74:7, 74:8, 96:5, 122:2, 123:1, 151:25  
**men** [13] - 38:10, 38:11, 38:12, 38:20, 46:20, 48:4, 68:11, 82:7, 94:12, 95:17, 95:18, 121:1  
**Mendez** [3] - 105:17, 105:18, 105:24  
**mention** [1] - 102:5  
**mentioned** [9] - 68:3, 68:19, 68:20, 95:25, 99:22, 101:17, 102:8, 105:22, 119:24

**mentions** [3] - 67:22, 68:7, 102:16  
**mere** [6] - 22:2, 22:3, 29:13, 29:14, 32:22, 34:20  
**merely** [1] - 7:7  
**mess** [1] - 53:22  
**message** [3] - 35:12, 35:14, 104:5  
**messages** [1] - 71:2  
**met** [17] - 24:21, 25:1, 25:15, 26:3, 51:9, 68:15, 76:3, 76:4, 80:21, 81:13, 83:5, 91:5, 105:23, 108:3, 123:14, 138:7, 138:8  
**Metro** [3] - 90:9, 90:10, 90:17  
**Mexican** [3] - 60:12, 62:5, 68:9  
**Mexico** [31] - 40:4, 40:24, 45:12, 46:20, 50:24, 51:2, 54:16, 54:17, 55:15, 61:24, 62:18, 63:10, 68:15, 69:25, 70:2, 70:5, 70:8, 70:10, 70:11, 70:12, 72:12, 80:6, 80:9, 83:4, 84:9, 101:24, 103:5, 120:21, 123:14, 141:25  
**Michael** [1] - 149:4  
**Michigan** [1] - 13:18  
**mid** [11] - 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25  
**mid-May** [11] - 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25  
**middle** [1] - 130:1  
**middleman** [1] - 41:2  
**might** [8] - 9:19, 45:6, 75:9, 106:12, 124:22, 134:2, 153:15  
**Miguel** [8] - 12:24, 23:25, 24:4, 24:8, 24:12, 24:15, 44:19, 100:20  
**Mike** [39] - 38:9, 39:10, 40:3, 40:11, 40:24, 41:3, 41:19, 41:21, 44:10, 44:17, 44:19, 46:18, 51:3, 70:9, 82:22, 84:4, 89:8, 90:17, 90:20, 93:23, 95:22, 97:14, 97:16, 99:24, 101:21, 102:7, 102:9, 102:11, 102:18, 102:24, 103:2, 106:19, 106:20, 106:23, 111:15, 121:16, 121:18, 121:23  
**Mike's** [11] - 48:23, 70:9, 89:9, 89:10, 96:3, 101:17, 101:18, 102:3, 102:19, 102:20, 122:24  
**miles** [1] - 126:5  
**military** [6] - 60:13, 62:5, 62:6, 62:7, 63:14, 68:9  
**mill** [1] - 121:21  
**million** [6] - 42:13, 42:18, 64:19, 68:4, 70:10, 142:17  
**mind** [9] - 5:2, 14:10, 14:19, 15:15, 16:13, 17:6, 17:11, 34:17, 35:15  
**minimal** [1] - 89:11  
**minimize** [1] - 87:2  
**minimum** [1] - 89:7  
**minor** [2] - 21:16, 29:2  
**minute** [10] - 59:10, 117:3, 119:12, 134:1, 137:5, 141:6, 144:8, 148:7, 151:5, 153:2  
**minutes** [14] - 5:6, 5:16, 48:5, 48:6,

56:3, 59:21, 61:3, 61:7, 66:1, 85:6, 129:16, 133:23, 134:1, 134:5  
**miraculous** [1] - 74:8  
**MIRO** [2] - 2:1, 154:25  
**Miro** [1] - 2:1  
**missed** [1] - 148:13  
**Mission** [1] - 24:2  
**mistake** [3] - 20:23, 28:8, 31:6  
**mixture** [4] - 19:12, 19:14, 19:18, 19:20  
**Mocho** [9] - 41:2, 41:17, 41:18, 68:7, 68:8, 98:6, 98:7, 98:8, 98:10  
**mom** [1] - 110:3  
**mom's** [1] - 88:13  
**moment** [5] - 49:16, 49:19, 104:4, 132:8, 145:14  
**Monday** [2] - 74:16, 74:21  
**money** [49] - 42:10, 42:12, 44:15, 44:23, 45:10, 45:13, 45:16, 45:17, 46:13, 50:4, 50:7, 50:8, 51:10, 62:9, 62:23, 63:15, 64:10, 64:11, 64:13, 64:17, 64:23, 67:4, 67:6, 67:11, 69:2, 70:8, 70:9, 71:23, 72:4, 91:10, 92:9, 94:10, 99:11, 104:12, 104:14, 106:7, 109:10, 109:25, 110:3, 110:11, 111:12, 113:13, 133:15, 138:16, 141:21, 142:24, 143:1  
**monitor** [1] - 95:21  
**month** [1] - 46:6  
**months** [8] - 66:17, 67:15, 67:16, 71:7, 77:8, 134:22, 135:4  
**Moody** [5] - 69:6, 103:21, 110:8, 110:20, 123:5  
**more** [36] - 5:3, 17:7, 17:9, 19:3, 19:13, 19:19, 20:14, 21:5, 22:24, 23:5, 28:15, 36:20, 36:23, 36:24, 49:12, 51:21, 51:22, 55:12, 83:13, 83:20, 88:7, 107:24, 108:6, 108:21, 112:8, 113:21, 114:25, 121:3, 127:3, 132:11, 134:20, 142:16, 149:21, 152:15  
**morning** [9] - 5:14, 38:1, 113:2, 150:2, 150:11, 150:24, 152:2, 153:10, 154:23  
**Morris** [3] - 4:11, 124:14, 133:21  
**MORRIS** [17] - 1:18, 4:14, 113:2, 129:17, 145:14, 146:3, 146:18, 147:5, 148:9, 148:13, 150:15, 152:14, 152:18, 152:22, 153:3, 153:5, 154:9  
**Morris**..... [1] - 3:6  
**most** [22] - 5:15, 8:16, 9:17, 45:11, 72:23, 81:15, 89:20, 91:3, 95:23, 99:25, 113:18, 117:11, 127:21, 128:18, 129:18, 131:10, 132:1, 132:5, 132:25, 138:7, 142:11  
**mother's** [1] - 78:21  
**motion** [3] - 115:20, 146:4  
**motive** [5] - 14:19, 46:9, 46:12, 46:13  
**Motor** [1] - 125:5  
**Motorsports** [1] - 149:9  
**mouth** [2] - 109:1, 140:2  
**move** [14] - 4:18, 40:15, 77:24, 77:25,

78:7, 78:12, 83:11, 88:19, 94:7, 114:25, 118:8, 121:6, 121:9  
**moved** [3] - 75:14, 83:18, 88:12  
**movement** [1] - 40:18  
**moves** [2] - 71:6, 142:4  
**movies** [1] - 91:21  
**moving** [9] - 40:12, 66:24, 75:12, 83:16, 120:2, 120:16, 126:9, 136:9, 142:23  
**Mr** [25] - 3:6, 3:7, 4:11, 37:20, 50:13, 51:14, 94:13, 95:16, 97:12, 98:10, 102:22, 103:8, 116:12, 117:1, 124:14, 133:21, 133:22, 140:21, 141:8, 142:22, 142:25, 143:13, 144:7, 144:8, 150:1  
**MR** [28] - 1:14, 1:18, 4:8, 4:14, 85:8, 113:2, 129:17, 133:23, 134:1, 145:14, 146:3, 146:18, 147:5, 147:10, 147:15, 147:17, 148:1, 148:9, 148:13, 150:14, 150:15, 152:14, 152:18, 152:22, 153:3, 153:5, 153:9, 154:9  
**Ms** [37] - 3:5, 3:6, 4:11, 37:23, 72:7, 74:18, 74:22, 75:1, 75:7, 75:9, 75:12, 75:14, 75:18, 76:11, 77:22, 78:17, 78:25, 79:15, 79:18, 84:25, 85:6, 85:15, 85:20, 86:1, 89:3, 90:24, 93:13, 94:20, 98:8, 100:2, 110:18, 113:2, 124:17, 126:25, 127:23, 144:7, 153:24  
**MS** [19] - 1:15, 1:22, 2:1, 4:13, 4:15, 37:22, 37:24, 85:7, 85:16, 148:6, 148:18, 153:15, 153:17, 153:22, 154:1, 154:11, 154:16, 154:25, 155:1  
**much** [20] - 12:17, 46:3, 69:18, 71:22, 89:3, 91:5, 94:1, 94:13, 94:17, 109:10, 115:7, 116:5, 117:12, 121:3, 121:4, 121:13, 122:16, 126:10, 129:15  
**multiagency** [2] - 110:16, 112:8  
**multiple** [9] - 89:5, 89:6, 106:14, 108:2, 109:24, 113:15, 122:19, 122:23, 132:16  
**multitude** [1] - 87:25  
**murder** [5] - 51:18, 86:17, 97:7, 100:16, 138:22  
**murdered** [6] - 46:24, 54:2, 69:23, 86:14, 97:8, 97:9  
**murderer** [1] - 104:10  
**murderers** [3] - 86:8, 103:13, 103:17  
**must** [30] - 6:2, 6:17, 7:24, 9:11, 9:24, 10:2, 10:20, 11:15, 11:17, 13:24, 15:7, 15:10, 19:1, 21:23, 22:11, 22:14, 22:17, 23:3, 29:9, 29:23, 30:1, 30:4, 30:16, 33:11, 34:7, 34:13, 132:18, 132:19, 138:20  
**my** [53] - 5:23, 6:1, 16:2, 17:20, 40:5, 40:12, 41:1, 41:19, 47:4, 47:23, 50:4, 51:4, 61:17, 61:22, 62:3, 62:15, 62:22, 63:3, 67:3, 69:23, 70:1, 70:4, 76:12, 77:20, 80:8, 88:12, 90:2, 91:17, 94:18, 98:21, 99:8, 99:12, 100:10, 100:11, 115:12, 120:18, 122:2, 122:9, 122:15, 139:3, 142:2, 143:15, 145:9, 146:4,

146:14, 147:5, 152:2, 155:6

**N****N** [4] - 4:1, 4:2**name** [29] - 25:9, 27:9, 27:10, 27:14, 27:16, 27:17, 27:19, 27:20, 41:2, 44:3, 55:17, 56:6, 56:7, 68:16, 68:17, 70:1, 77:20, 92:1, 96:12, 99:2, 104:6, 108:13, 120:24, 121:1, 121:16, 125:6, 133:11**named** [13] - 39:18, 39:21, 42:1, 44:10, 46:23, 47:22, 52:12, 52:13, 63:2, 68:3, 68:7, 91:24, 97:17**names** [5] - 51:7, 51:13, 52:12, 67:24, 124:7**National** [1] - 44:25**nature** [5] - 21:11, 28:22, 137:20, 138:8**near** [1] - 9:8**necessarily** [3] - 22:6, 29:17, 32:2**necessary** [5] - 8:7, 14:10, 14:20, 32:3, 32:18**need** [36] - 4:20, 21:17, 21:21, 29:4, 29:7, 31:23, 35:11, 37:16, 40:25, 42:10, 49:8, 56:16, 56:22, 64:10, 66:9, 75:15, 81:16, 83:8, 103:23, 110:24, 111:1, 111:2, 127:18, 127:19, 130:6, 131:14, 133:24, 136:24, 145:6, 146:3, 146:6, 149:20, 150:9, 150:24, 151:25**needs** [2] - 63:13, 145:5**negative** [1] - 87:11**neither** [2] - 7:10, 17:3**nervous** [1] - 42:7**never** [37] - 8:1, 15:18, 16:15, 17:12, 34:9, 38:21, 46:20, 49:3, 57:4, 58:25, 60:6, 67:24, 68:3, 68:6, 68:18, 68:20, 72:7, 77:18, 86:15, 86:16, 91:13, 93:7, 95:7, 98:25, 99:10, 102:3, 102:7, 102:15, 102:20, 104:13, 110:12, 112:1, 114:14, 122:21, 122:22, 124:8, 146:3**new** [7] - 46:2, 53:21, 67:10, 67:11, 84:5, 99:14, 100:19**news** [3] - 144:10, 144:16**next** [18] - 4:23, 41:20, 42:25, 45:5, 46:11, 46:17, 53:17, 56:9, 62:10, 62:25, 65:11, 73:11, 79:21, 81:20, 84:11, 94:23, 145:2, 150:2**nice** [1] - 68:17**nickname** [3] - 41:24, 47:1, 96:12**nicknames** [1] - 46:22**NICOLE** [1] - 1:15**night** [2] - 50:23, 53:22**Nine** [1] - 24:25**nine** [3] - 4:21, 57:21, 67:15**Nissan** [1] - 44:13**No** [1] - 42:11**no** [75] - 4:9, 6:14, 11:3, 22:8, 29:19, 33:23, 39:3, 40:22, 60:1, 63:17, 65:22, 70:24, 74:22, 75:24, 76:21, 76:22, 80:24, 80:25, 81:2, 82:16, 82:19, 83:16,

89:8, 90:25, 91:18, 94:22, 95:2, 96:20, 96:23, 98:7, 98:14, 101:19, 103:7, 103:8, 104:1, 104:3, 104:8, 104:21, 106:10, 106:15, 106:18, 106:19, 107:4, 108:22, 110:12, 112:15, 115:10, 115:15, 117:7, 118:12, 119:1, 123:18, 123:19, 123:20, 131:5, 134:8, 134:12, 134:14, 134:21, 135:11, 135:20, 138:23, 139:18, 140:20, 143:8, 145:9, 145:22, 146:16, 150:15, 153:5, 154:16

**NO** [1] - 3:1**nobody** [6] - 86:25, 106:8, 106:17, 107:22, 109:12, 121:22**nonbinding** [1] - 16:4**none** [5] - 93:17, 93:22, 95:24, 106:16, 117:5**nor** [5] - 7:10, 21:18, 21:23, 29:5, 29:9**normal** [2] - 89:19, 154:4**north** [2] - 73:18, 136:4**North** [1] - 136:4**not** [231] - 6:17, 6:22, 7:21, 8:7, 9:5, 9:15, 9:22, 9:24, 10:3, 10:5, 10:12, 10:14, 10:16, 10:18, 10:20, 10:22, 11:1, 11:17, 12:3, 12:25, 13:1, 13:24, 15:3, 16:10, 16:19, 17:1, 17:2, 17:4, 17:7, 17:8, 17:18, 17:19, 17:21, 17:22, 20:7, 20:22, 21:14, 21:17, 21:21, 22:6, 22:10, 22:13, 22:14, 22:16, 22:17, 28:7, 28:25, 29:3, 29:4, 29:7, 29:17, 29:21, 30:1, 30:3, 30:4, 31:5, 31:23, 32:2, 32:23, 33:1, 33:3, 33:4, 34:6, 34:16, 34:18, 35:7, 35:15, 35:16, 36:2, 36:6, 37:5, 37:8, 37:9, 39:1, 43:20, 45:2, 46:3, 46:6, 49:18, 50:3, 50:14, 50:25, 52:8, 52:9, 52:16, 53:8, 53:10, 53:21, 54:7, 54:14, 55:3, 57:7, 57:8, 57:16, 58:19, 59:16, 60:20, 61:2, 61:4, 61:5, 62:8, 65:7, 65:15, 65:25, 66:4, 66:23, 67:8, 69:7, 69:14, 71:8, 71:9, 71:14, 71:25, 72:25, 73:4, 74:14, 76:10, 77:14, 77:16, 78:9, 79:15, 79:16, 79:17, 80:20, 83:15, 83:25, 84:5, 85:24, 85:25, 86:2, 86:18, 86:21, 86:22, 87:6, 90:11, 90:24, 92:3, 92:11, 92:12, 92:13, 92:18, 93:2, 94:15, 95:3, 98:11, 98:12, 100:14, 101:12, 101:17, 102:13, 103:23, 106:11, 107:9, 108:22, 109:2, 109:6, 109:15, 109:21, 109:23, 111:14, 111:17, 112:2, 112:5, 112:16, 112:17, 112:23, 114:8, 114:20, 116:13, 117:21, 119:13, 119:23, 120:3, 120:5, 121:1, 121:18, 122:20, 123:25, 124:17, 124:22, 126:13, 126:18, 127:7, 127:24, 128:1, 128:2, 128:23, 128:24, 129:20, 131:1, 131:2, 131:7, 132:1, 132:2, 132:11, 132:12, 132:20, 132:23, 136:2, 137:19, 137:23, 138:2, 138:6, 138:13, 138:17, 139:5, 139:23, 140:3, 140:18, 141:9, 142:2, 143:11, 144:17, 146:23, 148:24, 150:14, 151:11, 151:15, 154:19**note** [7] - 61:10, 122:12, 146:11, 146:14, 149:6, 151:5, 151:18**Note** [3] - 149:19, 149:23, 153:12**notes** [13] - 10:11, 10:12, 10:14, 10:16, 10:18, 10:20, 98:21, 148:23, 148:25, 149:13, 151:6, 152:6**nothing** [12] - 7:2, 60:4, 67:19, 70:23, 70:25, 101:19, 107:12, 109:15, 124:19, 127:13, 140:20**notice** [1] - 9:19**notion** [1] - 6:17**now** [49] - 5:9, 5:15, 17:25, 21:4, 22:2, 23:18, 23:21, 34:4, 34:25, 37:19, 40:2, 43:23, 44:24, 49:9, 49:15, 50:9, 51:5, 61:3, 61:19, 66:25, 68:1, 72:18, 81:18, 84:15, 84:20, 85:14, 87:12, 91:12, 92:2, 99:4, 99:8, 100:2, 101:5, 103:24, 103:25, 112:25, 115:4, 121:8, 122:4, 123:22, 125:23, 129:13, 131:19, 131:24, 143:19, 143:20, 148:15, 149:17, 154:2**nowhere** [1] - 116:8**Number** [7] - 36:15, 59:6, 63:19, 64:20, 65:17, 69:16, 75:7**number** [17] - 35:1, 41:4, 61:14, 63:22, 66:15, 69:22, 91:13, 91:16, 91:18, 135:7, 135:13, 135:14, 135:16, 139:11, 145:2, 145:10**numbered** [1] - 155:7**numbers** [2] - 42:2, 135:6**numerically** [1] - 35:17**nuns** [1] - 135:25**nurse** [1] - 78:4**O****O** [3] - 4:1, 4:2**oath** [2] - 6:25, 79:11**object** [2] - 18:13, 23:17**objection** [5] - 4:9, 150:5, 150:13, 150:15, 154:16**objections** [2] - 9:15, 9:23**objectives** [2] - 22:1, 29:12**obvious** [1] - 75:2**obviously** [10] - 72:15, 72:18, 83:1, 94:15, 135:24, 138:10, 140:23, 141:8, 147:17, 148:2**occasion** [2] - 21:13, 28:24**occasions** [3] - 13:15, 14:8, 14:18**occurred** [4] - 9:4, 56:16, 66:6, 66:7**occurring** [1] - 95:20**OCDETF** [1] - 112:8**Ochoa** [1] - 27:25**OF** [3] - 1:1, 1:4, 1:9**of** [713] - 2:1, 2:5, 5:15, 5:17, 5:20, 5:21, 5:22, 6:1, 6:2, 6:5, 6:6, 6:7, 6:10, 6:13, 6:16, 6:19, 7:8, 7:11, 7:13, 7:22, 7:24, 8:2, 8:5, 8:6, 8:12, 8:15, 8:17, 9:3, 9:13, 9:16, 9:18, 9:21, 10:7, 10:13, 10:15, 10:16, 10:19, 10:20, 10:21,

10:24, 10:25, 11:5, 11:9, 11:14, 11:15, 11:18, 11:19, 11:21, 11:22, 11:24, 12:5, 12:11, 12:12, 12:13, 12:14, 12:16, 12:17, 12:18, 12:24, 13:2, 13:5, 13:6, 13:10, 13:12, 13:23, 13:24, 14:4, 14:7, 14:9, 14:12, 14:13, 14:17, 14:19, 14:22, 14:24, 15:3, 15:4, 15:8, 15:12, 15:14, 15:19, 16:11, 16:12, 16:13, 16:16, 16:18, 16:19, 17:1, 17:4, 17:13, 17:15, 17:18, 18:4, 18:8, 18:9, 18:13, 18:15, 18:24, 18:25, 19:1, 19:2, 19:6, 19:7, 19:11, 19:12, 19:13, 19:14, 19:15, 19:17, 19:18, 19:19, 19:20, 19:21, 19:24, 20:2, 20:5, 20:11, 20:13, 20:15, 20:16, 20:22, 21:6, 21:7, 21:8, 21:9, 21:10, 21:11, 21:19, 21:22, 21:24, 22:2, 22:6, 22:7, 22:8, 22:9, 22:12, 22:16, 22:18, 22:21, 22:25, 23:1, 23:2, 23:4, 23:6, 23:9, 23:10, 23:14, 23:15, 23:17, 23:18, 23:22, 24:1, 24:5, 24:9, 24:13, 24:16, 25:4, 25:6, 25:13, 26:18, 26:23, 26:25, 27:5, 27:11, 27:18, 27:25, 28:7, 28:17, 28:18, 28:19, 28:20, 28:22, 29:6, 29:8, 29:10, 29:13, 29:17, 29:19, 29:21, 29:25, 30:3, 30:5, 30:8, 30:10, 30:16, 30:17, 31:5, 31:10, 31:20, 32:1, 32:6, 32:8, 32:11, 32:14, 32:18, 32:22, 33:6, 33:10, 33:12, 33:22, 33:24, 34:2, 34:7, 34:8, 34:13, 34:14, 34:19, 34:20, 34:23, 35:1, 35:6, 35:7, 35:17, 35:22, 36:15, 36:18, 37:8, 37:11, 37:19, 38:1, 38:3, 38:4, 38:10, 38:19, 38:20, 39:9, 40:9, 40:15, 40:17, 40:18, 41:5, 41:7, 41:19, 41:22, 42:18, 43:9, 43:14, 43:15, 44:5, 45:11, 45:13, 45:17, 46:9, 46:15, 46:19, 46:20, 46:24, 47:5, 47:8, 47:24, 48:10, 49:10, 49:12, 49:14, 49:22, 50:2, 50:10, 51:8, 51:13, 51:19, 52:5, 52:15, 52:21, 53:4, 53:5, 53:18, 54:5, 54:18, 55:6, 55:11, 55:12, 55:22, 55:24, 56:14, 56:21, 57:1, 57:2, 57:6, 57:9, 57:13, 57:17, 57:18, 58:4, 59:7, 59:9, 59:19, 59:23, 60:2, 60:3, 60:22, 61:6, 61:14, 62:15, 62:17, 62:20, 63:9, 63:13, 63:23, 65:7, 65:18, 66:15, 67:1, 67:9, 67:19, 67:20, 67:21, 67:23, 67:25, 68:1, 68:5, 68:9, 69:5, 69:6, 69:8, 69:9, 69:10, 69:11, 70:2, 70:3, 70:9, 70:18, 70:25, 71:3, 71:13, 71:17, 71:20, 71:21, 72:24, 73:8, 73:9, 73:22, 73:23, 73:24, 74:6, 74:10, 74:24, 75:3, 75:5, 75:22, 76:5, 76:11, 77:9, 77:24, 78:7, 78:14, 78:23, 79:1, 79:4, 79:9, 79:11, 79:20, 79:22, 79:23, 80:5, 80:10, 80:11, 80:13, 80:15, 80:18, 80:22, 81:2, 81:3, 81:7, 81:8, 81:12, 81:15, 81:19, 81:22, 81:24, 82:3, 82:7, 82:9, 82:18, 82:23, 83:5, 83:8, 83:11, 83:14, 83:16, 83:17, 84:3, 84:12, 84:14, 84:21, 84:23, 85:19, 85:25, 86:1, 86:5, 86:8, 86:11, 86:14, 86:15, 86:20, 87:19, 87:25, 88:9, 88:13, 88:14, 88:22,

88:23, 88:25, 89:5, 89:6, 89:9, 89:11, 89:13, 89:17, 89:20, 89:25, 90:4, 90:9, 90:12, 90:16, 90:17, 90:21, 90:23, 90:24, 91:3, 91:7, 91:15, 91:21, 91:22, 91:25, 92:1, 92:4, 92:9, 93:5, 93:10, 93:11, 93:15, 93:18, 93:20, 93:22, 94:6, 94:9, 94:11, 94:12, 94:15, 94:18, 94:23, 94:25, 95:14, 95:17, 95:19, 95:20, 95:21, 95:24, 96:2, 96:3, 96:8, 96:11, 96:16, 96:23, 97:1, 97:8, 97:18, 97:22, 98:8, 98:14, 98:17, 98:22, 98:23, 98:24, 98:25, 99:3, 99:5, 99:15, 99:17, 99:21, 99:22, 99:24, 99:25, 100:9, 100:17, 101:22, 101:23, 101:24, 102:13, 102:21, 102:23, 102:24, 103:2, 103:15, 104:4, 104:10, 104:20, 105:4, 105:5, 105:10, 106:2, 106:12, 106:16, 106:17, 107:3, 107:4, 107:14, 107:21, 108:13, 109:13, 110:16, 111:1, 111:2, 111:3, 111:4, 111:12, 111:15, 111:19, 111:22, 112:1, 112:11, 112:15, 112:21, 112:22, 113:3, 113:4, 113:7, 113:13, 113:17, 114:1, 114:4, 114:9, 114:19, 114:21, 116:2, 116:3, 116:9, 116:14, 116:24, 117:3, 117:5, 117:8, 117:18, 117:19, 118:7, 118:10, 118:18, 119:8, 119:9, 119:19, 119:21, 120:6, 120:7, 120:25, 121:1, 121:2, 121:11, 121:14, 121:15, 122:2, 122:10, 122:16, 122:21, 122:22, 123:5, 123:9, 124:6, 124:10, 124:11, 124:15, 124:17, 124:21, 124:23, 125:5, 125:18, 126:6, 126:13, 127:10, 127:11, 127:14, 127:21, 128:6, 128:15, 128:17, 128:19, 128:25, 129:7, 129:19, 129:20, 129:21, 129:22, 129:23, 130:1, 130:2, 130:3, 130:14, 130:16, 130:22, 131:6, 131:10, 132:12, 132:25, 133:3, 133:8, 133:9, 133:10, 133:12, 134:5, 134:12, 134:15, 135:4, 135:19, 135:21, 136:9, 136:16, 137:3, 137:5, 137:7, 137:10, 137:11, 137:17, 137:20, 137:24, 138:7, 138:8, 138:13, 138:14, 139:11, 140:2, 140:11, 140:12, 140:15, 140:19, 141:11, 141:12, 141:18, 141:19, 141:21, 142:1, 142:4, 142:7, 142:11, 142:12, 142:21, 142:24, 143:1, 143:7, 143:14, 143:15, 143:16, 143:21, 144:8, 144:23, 145:5, 147:2, 147:5, 147:6, 147:13, 147:18, 147:19, 147:20, 147:22, 148:8, 149:2, 149:7, 149:8, 149:10, 150:9, 151:8, 151:24, 151:25, 152:9, 153:21, 154:4, 155:6, 155:6, 155:7  
**off** [21] - 5:5, 37:20, 40:8, 47:14, 50:18, 55:2, 64:23, 71:5, 78:22, 87:19, 91:13, 94:18, 100:11, 104:10, 111:16, 115:24, 121:11, 146:9, 146:14, 151:4  
**Off** [2] - 148:20, 152:21  
**Off-the** [1] - 152:21  
**Off-the-record** [1] - 148:20

**offend** [2] - 130:19, 131:14  
**offended** [2] - 112:15, 112:19  
**offense** [7] - 16:19, 17:2, 22:25, 31:11, 32:4, 33:6, 33:13  
**offenses** [3] - 8:19, 123:1, 123:2  
**offensive** [2] - 109:22, 112:14  
**office** [3] - 48:7, 48:8  
**Office** [3] - 1:15, 2:1, 109:11  
**Officer** [1] - 45:18  
**OFFICER** [7] - 5:11, 85:4, 85:10, 144:5, 148:22, 150:18, 152:4  
**officer** [3] - 35:13, 60:13, 122:18  
**officers** [2] - 53:21, 53:23  
**Official** [4] - 2:4, 2:4, 155:5, 155:9  
**Oh** [2] - 85:7, 108:9  
**oh** [6] - 71:6, 76:20, 99:23, 101:9, 103:7, 153:22  
**okay** [23] - 4:12, 4:17, 5:8, 75:25, 76:18, 78:19, 81:13, 81:23, 82:3, 119:12, 137:21, 144:11, 144:13, 144:15, 145:18, 146:5, 150:23, 152:12, 152:24, 153:1, 153:7, 153:16, 154:2  
**Okay** [3] - 49:8, 62:16, 120:12  
**old** [8] - 45:19, 45:20, 45:22, 45:24, 51:24, 69:17, 108:13, 142:16  
**Olivarez** [8] - 9:1, 22:23, 23:7, 25:13, 37:4, 38:15, 51:14, 53:18  
**Olivarez's** [1] - 26:6  
**on** [234] - 5:10, 8:3, 8:19, 8:22, 8:23, 9:1, 9:2, 9:4, 9:6, 9:8, 10:2, 10:8, 10:14, 13:14, 13:19, 14:8, 14:17, 16:11, 17:1, 17:4, 17:8, 17:10, 21:13, 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20, 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:15, 25:17, 25:20, 25:23, 25:25, 26:2, 26:3, 26:5, 26:7, 26:9, 26:11, 26:13, 26:14, 26:16, 26:19, 26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:13, 27:16, 27:19, 27:21, 27:24, 28:24, 34:8, 35:17, 36:4, 36:6, 36:10, 36:14, 36:23, 39:10, 39:20, 40:14, 42:2, 42:22, 44:11, 44:21, 45:23, 49:1, 51:5, 55:2, 55:5, 55:6, 55:12, 56:16, 57:2, 57:17, 59:2, 59:3, 59:4, 59:7, 59:11, 61:21, 62:11, 64:21, 66:10, 67:18, 67:20, 68:8, 70:9, 72:7, 72:10, 73:14, 73:21, 73:23, 74:4, 74:8, 74:12, 74:20, 74:25, 76:1, 76:22, 78:8, 78:23, 78:24, 79:6, 80:6, 80:19, 81:7, 81:11, 81:16, 82:10, 83:21, 84:2, 89:3, 90:3, 90:12, 90:24, 91:5, 92:6, 94:24, 95:19, 96:10, 96:14, 96:21, 98:9, 99:24, 100:19, 100:20, 100:22, 100:24, 101:3, 101:6, 101:7, 101:11, 101:16, 102:3, 103:5, 103:18, 103:24, 103:25, 104:15, 105:9, 106:13, 107:12, 107:25, 109:11, 112:13, 113:21, 113:24, 114:4, 114:8, 114:9, 115:8, 115:19, 116:6, 117:7, 117:13, 117:14, 117:15, 117:18, 117:24, 118:2, 118:8, 118:14, 118:19, 119:16, 120:6, 120:21, 123:24, 124:4,

124:17, 124:19, 125:16, 126:24, 127:5, 127:20, 127:22, 129:3, 130:11, 131:3, 132:7, 133:4, 133:16, 133:18, 134:12, 134:25, 135:20, 136:5, 136:8, 137:16, 139:24, 142:18, 143:18, 143:20, 146:7, 148:9, 149:18, 150:1, 150:2, 150:12, 151:22, 151:25, 152:12, 152:16, 152:18, 152:19, 152:24, 152:25, 153:1, 153:20, 153:23

**once** [8] - 37:6, 55:3, 55:16, 62:8, 80:14, 93:25, 101:9, 143:6

**one** [124] - 4:19, 5:22, 6:15, 6:23, 10:24, 15:4, 16:9, 17:8, 17:10, 17:18, 20:12, 21:8, 21:13, 23:14, 23:16, 23:24, 25:4, 28:18, 28:24, 34:11, 35:1, 40:21, 40:25, 42:20, 44:11, 45:11, 48:25, 49:2, 52:25, 53:3, 53:4, 53:5, 54:21, 55:11, 55:24, 57:13, 57:15, 57:18, 57:20, 58:22, 58:23, 59:7, 59:19, 60:3, 63:8, 63:17, 67:1, 70:8, 76:21, 76:22, 77:6, 81:2, 81:4, 81:5, 81:10, 81:11, 81:12, 81:16, 83:24, 84:8, 85:17, 85:18, 85:25, 89:2, 89:4, 90:22, 90:23, 91:3, 91:25, 92:8, 94:4, 94:11, 94:22, 95:4, 95:17, 96:8, 97:3, 103:2, 104:13, 104:25, 105:10, 106:4, 107:7, 107:24, 109:3, 109:9, 110:16, 111:19, 113:17, 114:1, 114:7, 115:23, 120:6, 120:25, 121:1, 121:11, 123:1, 125:20, 129:19, 129:20, 131:5, 131:6, 131:10, 132:12, 132:25, 134:8, 134:13, 134:20, 136:1, 136:14, 139:7, 139:8, 139:12, 140:21, 143:8, 144:23, 148:7, 149:2, 150:11, 150:12, 153:13, 154:2

**one-third** [1] - 121:11

**ones** [3] - 51:15, 63:4, 73:2

**ongoing** [1] - 82:13

**only** [42] - 8:9, 9:11, 10:11, 13:3, 15:1, 16:23, 21:15, 29:1, 31:25, 34:13, 38:25, 50:17, 54:7, 56:17, 58:8, 58:19, 59:16, 62:25, 63:1, 63:5, 69:17, 71:25, 73:2, 73:4, 73:22, 73:25, 74:3, 80:22, 86:10, 92:3, 100:3, 106:3, 111:2, 115:2, 115:4, 115:22, 132:21, 136:12, 139:23, 140:2, 145:21, 151:15

**open** [2] - 69:19, 147:4

**opened** [1] - 149:11

**opening** [3] - 93:14, 113:24, 146:22

**opens** [3] - 48:9, 142:5, 142:8

**operate** [1] - 143:20

**operating** [3] - 62:18, 68:22, 143:18

**operation** [2] - 96:1, 102:3

**opinion** [5] - 6:18, 10:6, 10:21, 34:20, 131:15

**opinions** [1] - 34:17

**opportunity** [7] - 12:9, 14:19, 111:16, 112:5, 131:19, 133:12, 148:13

**or** [262] - 4:21, 6:14, 6:15, 6:17, 6:18, 6:22, 6:23, 6:24, 8:6, 8:19, 8:22, 8:23, 9:1, 9:2, 9:4, 9:15, 9:17, 9:19, 10:6,

10:19, 10:20, 10:23, 11:1, 11:4, 11:18, 11:19, 11:23, 12:6, 12:7, 12:8, 12:20, 12:21, 13:5, 14:10, 14:19, 15:6, 15:13, 15:14, 15:23, 15:24, 16:8, 16:21, 17:2, 17:3, 17:4, 17:13, 17:18, 17:23, 17:25, 18:20, 19:3, 19:5, 19:12, 19:13, 19:14, 19:16, 19:18, 19:19, 19:20, 19:23, 19:24, 20:2, 20:9, 20:10, 20:12, 20:13, 20:14, 20:18, 20:19, 20:23, 21:3, 21:4, 21:9, 21:12, 21:13, 21:23, 21:25, 22:3, 22:24, 23:5, 23:7, 23:17, 23:24, 24:3, 24:7, 24:11, 24:14, 24:17, 24:20, 24:23, 24:25, 25:3, 25:5, 25:8, 25:11, 25:14, 25:17, 25:20, 25:23, 25:25, 26:2, 26:5, 26:7, 26:9, 26:11, 26:13, 26:16, 26:19, 26:21, 26:24, 27:2, 27:4, 27:7, 27:9, 27:13, 27:16, 27:19, 27:21, 27:24, 28:7, 28:13, 28:15, 28:20, 28:23, 28:24, 29:9, 29:11, 29:14, 30:9, 30:12, 30:13, 30:22, 30:23, 31:2, 31:5, 31:8, 31:9, 31:16, 31:19, 31:25, 32:7, 32:8, 32:12, 32:15, 32:24, 33:7, 34:2, 34:6, 34:19, 34:20, 35:7, 35:14, 35:17, 36:2, 36:17, 37:4, 37:8, 37:9, 39:1, 41:24, 45:1, 45:2, 45:3, 47:15, 51:6, 53:7, 57:14, 61:21, 68:20, 69:7, 69:14, 74:12, 74:14, 79:11, 82:21, 83:3, 83:8, 84:19, 86:15, 93:14, 96:5, 96:6, 96:21, 96:25, 97:4, 98:12, 98:24, 99:2, 99:17, 100:16, 101:13, 101:14, 103:9, 104:8, 105:2, 105:24, 106:1, 106:17, 107:8, 107:10, 107:16, 107:17, 108:6, 108:22, 109:16, 110:13, 110:21, 111:23, 111:25, 112:3, 114:9, 116:15, 116:20, 117:21, 118:6, 119:5, 119:8, 119:17, 125:6, 125:8, 126:14, 126:24, 128:2, 128:21, 129:25, 134:18, 135:4, 136:10, 137:2, 137:11, 137:19, 140:11, 140:13, 142:12, 145:21, 147:2, 147:21, 152:19

**oral** [1] - 147:25

**orange** [1] - 98:9

**order** [4] - 23:17, 56:22, 127:9, 148:16

**ordinarily** [1] - 32:5

**ordinary** [2] - 15:8, 57:11

**organization** [2] - 57:2, 112:12

**original** [1] - 7:8

**Orlando** [9] - 27:4, 27:7, 27:22, 55:10, 102:2, 121:13, 140:6, 140:7

**Oscar** [1] - 101:16

**other** [89] - 5:22, 6:24, 7:15, 10:17, 11:10, 12:11, 12:15, 12:20, 13:15, 14:3, 14:5, 14:8, 14:15, 14:18, 15:25, 16:20, 17:4, 17:8, 17:19, 21:7, 21:10, 22:4, 22:15, 22:18, 28:18, 28:21, 29:15, 30:2, 30:6, 31:21, 32:14, 33:3, 39:25, 40:22, 43:21, 45:15, 48:4, 48:16, 52:13, 54:3, 57:25, 58:1, 59:17, 71:18, 72:6, 74:3, 74:18, 77:3, 82:2, 83:11, 84:1, 85:21, 85:23, 86:7, 89:24, 91:15, 91:18, 93:22, 93:23, 95:2, 95:23, 99:3, 99:11, 104:20,

107:8, 111:6, 114:13, 114:17, 114:25, 116:4, 116:10, 116:17, 117:5, 117:6, 118:23, 120:16, 123:3, 126:23, 133:17, 134:9, 139:23, 145:7, 145:22, 148:9, 148:12, 151:6, 154:3

**others** [5] - 20:19, 30:15, 32:18, 91:23, 116:2

**otherwise** [3] - 9:19, 35:17, 139:1

**ought** [1] - 6:18

**our** [15] - 46:13, 51:13, 85:19, 85:25, 88:22, 96:11, 97:12, 114:19, 118:16, 127:25, 144:12, 148:1, 148:13, 152:8, 152:25

**out** [69] - 9:16, 21:23, 29:9, 40:25, 42:4, 44:17, 47:19, 48:12, 49:3, 49:25, 50:15, 52:15, 52:25, 53:9, 53:10, 54:5, 54:14, 55:3, 55:7, 55:13, 55:22, 56:3, 56:7, 59:7, 61:10, 62:5, 63:15, 64:21, 64:23, 67:23, 68:7, 68:10, 70:3, 78:7, 79:5, 79:18, 79:23, 84:3, 88:6, 88:7, 88:8, 94:21, 96:2, 97:1, 97:18, 99:17, 99:23, 100:12, 103:25, 105:5, 106:16, 108:23, 109:12, 114:24, 120:1, 120:11, 123:17, 125:6, 129:1, 129:3, 130:24, 131:16, 140:2, 140:15, 141:13, 144:23, 152:15, 154:12

**outcome** [3] - 12:5, 15:12, 116:14

**outside** [6] - 40:9, 73:24, 94:11, 98:20, 99:15, 125:16

**over** [44] - 4:21, 4:23, 5:24, 10:12, 20:5, 20:9, 40:5, 42:18, 43:8, 46:25, 47:3, 48:17, 49:4, 49:16, 58:3, 61:8, 61:18, 61:22, 62:9, 63:4, 63:21, 63:22, 63:25, 64:21, 69:5, 69:8, 76:2, 84:6, 87:3, 87:4, 90:3, 107:18, 110:10, 117:4, 117:9, 120:25, 134:19, 139:11, 144:8, 145:7, 151:1

**overall** [1] - 19:11

**overboard** [1] - 117:2

**overlap** [1] - 113:4

**overriding** [2] - 113:7

**Overt** [1] - 23:22

**overt** [8] - 4:5, 23:16, 23:18, 28:2, 28:3, 81:4, 81:5, 81:9

**overwhelming** [3] - 65:6, 133:10, 133:12

**Ovidio** [31] - 9:4, 26:10, 26:12, 26:14, 26:18, 26:23, 27:1, 27:6, 27:12, 27:18, 27:22, 27:25, 30:10, 30:20, 30:22, 30:24, 31:1, 31:24, 37:9, 38:17, 55:6, 58:18, 58:23, 73:24, 81:19, 82:6, 82:10, 82:16, 82:17, 82:19, 84:16

**own** [17] - 5:20, 6:17, 8:17, 9:20, 10:10, 10:15, 10:21, 34:17, 54:16, 59:18, 71:1, 90:25, 103:15, 128:19, 130:4, 130:16, 131:10

**owned** [4] - 95:7, 95:16, 98:17, 125:7

**owner** [2] - 98:17, 140:11

**owns** [2] - 43:3, 47:24

## P

**P** <sup>[1]</sup> - 4:1  
**pace** <sup>[1]</sup> - 77:25  
**Paco** <sup>[11]</sup> - 47:22, 48:1, 48:6, 48:8, 48:15, 48:20, 49:5, 49:6, 49:11, 76:3  
**paddle** <sup>[1]</sup> - 53:13  
**paddled** <sup>[1]</sup> - 56:5  
**paddles** <sup>[1]</sup> - 53:14  
**PAGE** <sup>[1]</sup> - 3:1  
**Page** <sup>[10]</sup> - 57:17, 81:7, 152:16, 153:1, 153:7, 153:18, 153:21, 153:23  
**pages** <sup>[2]</sup> - 16:2, 107:15  
**pains** <sup>[1]</sup> - 117:14  
**Palmas** <sup>[1]</sup> - 45:23  
**Panama** <sup>[8]</sup> - 68:6, 90:23, 90:24, 91:1, 91:7, 93:19, 99:14, 115:2  
**Panochas** <sup>[18]</sup> - 41:24, 42:6, 42:7, 42:13, 42:14, 42:20, 43:19, 63:21, 63:24, 63:25, 64:5, 64:9, 64:13, 67:24, 83:21, 84:6, 107:17  
**panochas** <sup>[1]</sup> - 64:1  
**Panochitas** <sup>[11]</sup> - 41:25, 97:12, 102:9, 103:8, 103:19, 103:22, 104:1, 104:9, 104:21, 107:16, 141:2  
**pardon** <sup>[1]</sup> - 133:25  
**parent's** <sup>[1]</sup> - 119:7  
**parking** <sup>[1]</sup> - 51:10  
**part** <sup>[18]</sup> - 11:21, 11:24, 21:16, 31:10, 31:20, 57:1, 65:10, 65:25, 66:13, 73:6, 80:22, 84:21, 122:22, 127:21, 127:22, 137:10, 147:6, 153:1  
**participant** <sup>[1]</sup> - 33:1  
**participate** <sup>[1]</sup> - 33:25  
**participated** <sup>[10]</sup> - 21:15, 29:1, 32:20, 33:8, 33:17, 89:23, 90:20, 93:21, 94:8, 136:22  
**participates** <sup>[1]</sup> - 54:9  
**participating** <sup>[1]</sup> - 91:1  
**particular** <sup>[7]</sup> - 6:8, 12:3, 17:9, 116:12, 122:12, 125:20, 147:6  
**parties** <sup>[5]</sup> - 7:1, 9:13, 39:14, 65:17, 152:25  
**partnership** <sup>[2]</sup> - 21:6, 28:17  
**parts** <sup>[1]</sup> - 146:19  
**partying** <sup>[1]</sup> - 102:1  
**passed** <sup>[1]</sup> - 91:12  
**passengers** <sup>[1]</sup> - 72:6  
**passes** <sup>[1]</sup> - 41:3  
**past** <sup>[1]</sup> - 71:19  
**PATRICE** <sup>[1]</sup> - 1:22  
**pattern** <sup>[1]</sup> - 81:7  
**pause** <sup>[6]</sup> - 145:17, 148:11, 150:17, 152:11, 153:14, 154:21  
**pay** <sup>[4]</sup> - 15:5, 62:8, 63:14, 77:20  
**Payaso** <sup>[15]</sup> - 27:17, 27:20, 46:22, 48:4, 48:20, 49:17, 52:13, 55:21, 64:21, 64:23, 68:11, 68:15, 101:5, 101:6  
**paying** <sup>[3]</sup> - 46:6, 62:12, 62:24

**payment** <sup>[1]</sup> - 68:5  
**payments** <sup>[1]</sup> - 46:7  
**PD** <sup>[1]</sup> - 136:10  
**Pecuaka** <sup>[1]</sup> - 104:7  
**Pedro** <sup>[4]</sup> - 13:16, 13:19, 14:14, 45:19  
**Pelon** <sup>[6]</sup> - 97:21, 102:12, 102:14, 102:15, 103:1, 111:15  
**penalty** <sup>[2]</sup> - 79:3, 79:8  
**pending** <sup>[2]</sup> - 121:10, 122:5  
**penitentiary** <sup>[1]</sup> - 129:1  
**people** <sup>[103]</sup> - 29:15, 38:23, 41:11, 43:21, 45:16, 46:19, 47:12, 47:13, 47:19, 50:19, 51:8, 51:21, 51:22, 52:13, 54:5, 54:9, 56:17, 56:25, 57:3, 57:4, 58:5, 59:9, 60:16, 66:19, 67:18, 67:20, 71:18, 72:24, 73:1, 73:2, 80:12, 80:24, 80:25, 83:11, 84:1, 84:2, 84:3, 84:17, 86:10, 86:11, 86:14, 88:2, 88:13, 89:6, 90:13, 90:14, 93:8, 94:6, 94:25, 96:16, 97:8, 97:9, 97:17, 97:24, 99:21, 99:23, 100:18, 102:22, 103:9, 106:16, 111:13, 112:2, 112:3, 112:6, 113:11, 114:16, 114:20, 120:25, 121:15, 124:6, 124:7, 124:24, 126:4, 126:24, 127:1, 127:5, 127:7, 127:8, 127:20, 128:1, 128:25, 133:9, 135:10, 136:3, 136:8, 136:13, 136:14, 136:16, 136:17, 136:18, 136:23, 138:4, 138:9, 140:22, 141:3, 141:5, 143:20  
**people's** <sup>[2]</sup> - 124:7, 124:8  
**percent** <sup>[1]</sup> - 74:20  
**perfectly** <sup>[1]</sup> - 59:13  
**performed** <sup>[1]</sup> - 13:19  
**performs** <sup>[1]</sup> - 32:12  
**perhaps** <sup>[2]</sup> - 126:23, 127:21  
**period** <sup>[5]</sup> - 101:21, 101:25, 102:21, 102:24, 106:3  
**perjury** <sup>[3]</sup> - 79:4, 79:9, 79:10  
**permanent** <sup>[1]</sup> - 88:12  
**permitted** <sup>[2]</sup> - 9:25, 11:7  
**person** <sup>[40]</sup> - 11:24, 12:2, 16:20, 17:4, 19:24, 20:4, 20:7, 20:10, 20:12, 22:8, 24:5, 29:19, 30:12, 31:7, 31:8, 32:5, 32:6, 32:8, 32:11, 32:12, 33:7, 33:14, 35:16, 52:6, 66:5, 74:19, 81:5, 81:12, 82:2, 83:23, 93:9, 93:10, 95:3, 104:8, 115:8, 123:9, 123:10, 129:4, 141:4, 143:10  
**personal** <sup>[5]</sup> - 12:4, 15:6, 100:3, 106:5, 116:13  
**personally** <sup>[6]</sup> - 32:3, 43:9, 54:4, 56:10, 81:25, 83:18  
**persons** <sup>[15]</sup> - 17:4, 19:3, 20:10, 20:14, 21:5, 21:24, 22:4, 22:24, 23:5, 24:1, 28:15, 29:10, 32:8, 32:15, 33:7  
**pertain** <sup>[1]</sup> - 17:24  
**pertaining** <sup>[1]</sup> - 17:16  
**pestering** <sup>[1]</sup> - 50:6  
**Peter** <sup>[2]</sup> - 108:15, 108:18  
**pharmaceutical** <sup>[1]</sup> - 130:4

**phase** <sup>[1]</sup> - 113:13  
**phases** <sup>[1]</sup> - 88:13  
**phone** <sup>[29]</sup> - 40:15, 41:4, 60:9, 60:18, 91:16, 91:17, 91:18, 93:4, 96:15, 125:24, 125:25, 126:1, 126:2, 131:19, 135:3, 135:6, 135:7, 135:11, 135:13, 135:17, 145:2, 145:3, 145:4, 145:10, 145:25  
**phones** <sup>[3]</sup> - 53:5, 55:24, 135:10  
**photographed** <sup>[1]</sup> - 85:24  
**physical** <sup>[1]</sup> - 20:4  
**physically** <sup>[1]</sup> - 52:4  
**pick** <sup>[14]</sup> - 41:11, 52:24, 53:10, 54:9, 54:22, 55:13, 56:4, 60:9, 60:18, 61:7, 80:25, 94:10, 99:4, 138:22  
**picked** <sup>[5]</sup> - 55:5, 58:18, 69:12, 139:16, 140:21  
**picking** <sup>[1]</sup> - 140:9  
**picks** <sup>[1]</sup> - 40:9  
**picture** <sup>[8]</sup> - 98:8, 104:4, 117:18, 123:5, 123:9, 123:12, 123:13, 123:15  
**pictures** <sup>[2]</sup> - 91:21, 92:4  
**piece** <sup>[2]</sup> - 67:1, 124:15  
**pieces** <sup>[1]</sup> - 59:19  
**pinging** <sup>[2]</sup> - 126:2, 126:3  
**pinpoint** <sup>[1]</sup> - 147:21  
**piso** <sup>[1]</sup> - 100:25  
**place** <sup>[2]</sup> - 7:8, 87:15  
**places** <sup>[1]</sup> - 126:9  
**plan** <sup>[13]</sup> - 21:12, 21:13, 28:23, 28:24, 51:17, 53:21, 55:19, 67:10, 68:8, 92:5, 117:10, 118:9, 150:13  
**planet** <sup>[1]</sup> - 80:6  
**planned** <sup>[3]</sup> - 78:12, 92:19  
**planning** <sup>[1]</sup> - 117:11  
**plant** <sup>[2]</sup> - 65:13, 66:22  
**plates** <sup>[3]</sup> - 54:13, 54:17, 54:19  
**play** <sup>[2]</sup> - 61:11, 148:3  
**played** <sup>[4]</sup> - 21:15, 29:1, 84:17, 84:21  
**player** <sup>[1]</sup> - 89:8  
**players** <sup>[2]</sup> - 52:12, 87:7  
**playing** <sup>[5]</sup> - 65:10, 65:12, 65:25, 66:13, 73:6  
**plaza** <sup>[3]</sup> - 45:14, 60:11, 96:3  
**plea** <sup>[7]</sup> - 15:23, 16:5, 16:9, 16:18, 57:9, 116:19, 116:22  
**please** <sup>[9]</sup> - 36:8, 36:15, 37:24, 39:6, 41:20, 46:11, 46:17, 56:9, 65:11  
**pleased** <sup>[1]</sup> - 35:20  
**pledge** <sup>[1]</sup> - 97:20  
**plus** <sup>[3]</sup> - 137:22, 139:4, 139:8  
**point** <sup>[28]</sup> - 9:16, 17:9, 17:10, 40:1, 40:25, 48:25, 49:2, 51:6, 51:11, 53:20, 54:21, 74:9, 82:6, 82:12, 82:13, 91:12, 94:20, 94:21, 103:5, 120:8, 123:17, 127:13, 132:14, 138:15, 139:20, 140:18, 145:8  
**pointed** <sup>[2]</sup> - 56:7, 152:15  
**points** <sup>[1]</sup> - 73:13



**pole** [6] - 95:12, 99:19, 111:5, 125:16, 134:25  
**police** [12] - 52:8, 53:6, 53:8, 53:21, 53:23, 54:24, 55:25, 80:8, 105:6, 105:14, 113:15, 122:18  
**Porsche** [2] - 46:2, 142:14  
**port** [2] - 13:23, 71:21  
**portion** [8] - 138:14, 147:1, 147:22, 149:2, 149:6, 149:17, 149:19, 149:25  
**portions** [3] - 149:17, 152:13, 152:14  
**portrait** [4] - 141:15, 142:19, 142:20, 142:21  
**portraits** [3] - 141:12, 141:14  
**portray** [1] - 141:16  
**posed** [1] - 58:7  
**position** [4] - 100:8, 119:25, 120:18, 136:19  
**positive** [1] - 87:12  
**possess** [7] - 8:21, 18:5, 18:11, 18:13, 19:4, 19:22, 19:23  
**possessed** [8] - 18:17, 18:21, 26:8, 26:20, 27:3, 27:8, 27:15, 27:20  
**possession** [15] - 18:15, 19:23, 20:1, 20:2, 20:3, 20:5, 20:7, 20:11, 20:12, 20:13, 20:14, 20:15, 20:16, 20:18  
**possibility** [2] - 107:3, 111:2  
**possible** [8] - 8:8, 39:23, 103:19, 123:8, 137:25, 138:1, 138:12, 138:19  
**potential** [7] - 111:20, 111:21, 137:12, 137:15, 137:22, 139:4, 139:8  
**potentially** [1] - 128:7  
**power** [9] - 20:8, 87:13, 87:20, 101:13, 102:12, 102:15, 103:1, 112:22, 112:23  
**powerful** [3] - 45:12, 121:18, 121:19  
**practitioner** [1] - 78:4  
**precedence** [1] - 10:12  
**precious** [1] - 113:18  
**pregnancy** [1] - 117:24  
**prejudice** [3] - 6:22, 6:23, 15:12  
**prepared** [1] - 35:4  
**presence** [3] - 22:2, 29:13, 32:22  
**present** [3] - 20:17, 136:20, 137:6  
**presented** [3] - 9:12, 11:6, 143:3  
**preside** [1] - 5:23  
**presumably** [1] - 103:22  
**presumed** [2] - 7:12, 7:15  
**presumption** [2] - 7:13, 7:20  
**pretend** [1] - 53:21  
**pretty** [4] - 76:8, 91:5, 100:7, 121:13  
**price** [2] - 24:6, 24:10  
**primarily** [1] - 17:25  
**principal** [2] - 33:22, 34:2  
**principal's** [1] - 33:24  
**principle** [1] - 113:7  
**print** [1] - 87:19  
**prior** [5] - 59:7, 66:17, 76:14, 87:1, 153:21  
**priorities** [1] - 115:11  
**priority** [1] - 115:12

**prison** [4] - 86:21, 121:22, 121:23, 122:25  
**prize** [1] - 121:2  
**probable** [2] - 110:23, 110:24  
**probably** [1] - 149:20  
**problem** [6] - 42:11, 73:16, 85:14, 139:1, 148:4, 149:24  
**problems** [1] - 117:23  
**procedure** [1] - 154:11  
**procedures** [1] - 6:9  
**proceeding** [1] - 151:1  
**Proceedings** [1] - 1:24  
**PROCEEDINGS** [1] - 1:9  
**proceedings** [10] - 7:5, 10:15, 145:17, 148:11, 150:17, 152:11, 153:14, 154:21, 155:2, 155:7  
**proceeds** [1] - 43:13  
**process** [1] - 150:9  
**prodigy** [1] - 141:17  
**produced** [1] - 1:25  
**producing** [1] - 17:13  
**profitable** [1] - 142:9  
**profits** [1] - 141:19  
**progressed** [1] - 139:11  
**prohibited** [1] - 16:10  
**Project** [1] - 110:17  
**promise** [1] - 6:25  
**promptly** [1] - 150:25  
**proof** [41] - 6:5, 7:24, 8:2, 8:5, 8:6, 8:9, 8:14, 8:15, 10:25, 22:6, 29:17, 85:20, 85:25, 86:2, 86:6, 86:20, 88:23, 88:25, 89:13, 89:19, 89:23, 93:21, 94:8, 100:15, 103:14, 106:24, 107:21, 107:24, 107:25, 108:1, 112:15, 118:7, 126:21, 127:17, 127:22, 128:5, 128:16, 128:17, 129:7, 129:12  
**proper** [2] - 5:24, 16:7  
**properly** [1] - 112:24  
**property** [1] - 77:20  
**proposal** [2] - 61:16, 67:11  
**propose** [1] - 148:14  
**prosecute** [3] - 56:25, 127:10, 134:16  
**prosecuted** [2] - 115:2, 121:8  
**prosecuting** [1] - 140:22  
**prosecution** [4] - 15:15, 112:11, 113:20, 113:21  
**prosecutor** [1] - 111:22  
**prosecutors** [3] - 109:14, 121:25, 134:15  
**protect** [2] - 45:3, 96:10  
**protects** [6] - 128:20, 128:21, 128:22, 128:23, 129:11  
**prove** [30] - 9:5, 12:25, 13:2, 21:17, 21:21, 21:23, 29:4, 29:7, 29:9, 31:23, 82:4, 82:5, 82:6, 82:9, 86:19, 87:11, 87:21, 88:25, 89:14, 89:15, 89:18, 89:21, 97:19, 98:4, 103:3, 107:10, 111:14, 112:20, 135:17  
**proved** [9] - 8:7, 16:25, 19:2, 23:3, 30:17, 33:11, 34:24, 88:16, 107:7

**proven** [9] - 7:17, 11:14, 39:2, 79:12, 80:17, 81:15, 84:13, 89:7, 119:4  
**proves** [2] - 9:7, 135:17  
**provide** [2] - 16:2, 16:4  
**provided** [3] - 16:7, 35:6, 57:11  
**provides** [2] - 15:4, 16:1  
**proving** [1] - 7:22  
**pseudo** [1] - 58:7  
**pull** [1] - 44:15  
**punishment** [3] - 15:6, 17:21, 17:22  
**purchases** [1] - 45:22  
**purpose** [18] - 19:7, 19:10, 21:3, 21:6, 22:9, 23:10, 23:13, 23:17, 28:12, 28:16, 29:21, 30:13, 30:22, 31:16, 34:20, 82:21, 126:13, 136:14  
**purposely** [4] - 21:1, 28:11, 31:14, 33:17  
**purposes** [3] - 14:3, 14:11, 14:21  
**purse** [1] - 142:2  
**put** [16] - 26:11, 70:4, 70:5, 77:19, 86:21, 93:14, 98:8, 99:19, 100:8, 109:1, 115:24, 119:18, 125:16, 127:2, 132:21  
**puts** [3] - 49:4, 106:4, 117:13  
**putting** [2] - 99:17, 117:2

## Q

**quarter** [1] - 142:17  
**question** [15] - 6:15, 8:4, 10:1, 33:13, 36:13, 83:12, 85:19, 126:24, 147:1, 147:2, 151:23, 152:9, 153:2, 153:21, 154:14  
**questions** [12] - 8:3, 9:14, 9:24, 12:2, 12:10, 18:2, 35:23, 71:22, 98:18, 108:17, 114:15  
**quick** [1] - 46:12  
**quickly** [4] - 47:15, 87:16, 88:9, 131:21  
**Quince** [8] - 63:2, 63:5, 63:7, 63:12, 63:14, 104:12  
**Quince's** [1] - 63:16  
**quit** [1] - 150:1  
**quote** [1] - 143:5  
**quotes** [3] - 93:15, 93:16, 107:14

## R

**R** [2] - 4:1, 4:2  
**R&H** [2] - 105:11, 142:6  
**radio** [1] - 55:9  
**radios** [3] - 42:3, 53:5, 55:24  
**Rahas** [1] - 101:18  
**raised** [1] - 78:1  
**Ramon** [9] - 13:16, 13:21, 14:13, 45:21, 71:20, 72:2, 72:3, 72:8, 100:21  
**ranch** [3] - 108:11, 108:14, 139:21  
**ranches** [3] - 61:23, 107:22, 107:23  
**ranking** [3] - 45:13, 60:11, 112:10  
**ranks** [1] - 142:23  
**ratchet** [1] - 149:21  
**Raul** [1] - 24:23

**Rayo** <sup>[1]</sup> - 100:25  
**re** <sup>[1]</sup> - 154:22  
**re-arraignments** <sup>[1]</sup> - 154:22  
**reach** <sup>[6]</sup> - 11:10, 17:8, 34:6, 34:12, 42:2, 144:23  
**reached** <sup>[5]</sup> - 19:4, 23:6, 35:10, 35:18, 153:25  
**reaches** <sup>[1]</sup> - 42:4  
**reaching** <sup>[2]</sup> - 6:11, 17:6  
**react** <sup>[1]</sup> - 137:18  
**read** <sup>[17]</sup> - 5:16, 23:21, 37:14, 116:7, 116:8, 122:14, 131:3, 144:20, 147:8, 154:5, 154:7, 154:8, 154:12, 154:13, 154:14, 154:19  
**reading** <sup>[6]</sup> - 81:6, 152:12, 152:13, 152:25, 154:10, 154:17  
**ready** <sup>[2]</sup> - 5:9, 154:23  
**real** <sup>[7]</sup> - 88:2, 88:3, 96:12, 141:10, 143:9, 149:23, 151:12  
**realizes** <sup>[1]</sup> - 54:9  
**really** <sup>[25]</sup> - 45:3, 47:11, 47:22, 55:17, 61:12, 69:18, 75:11, 75:22, 76:9, 79:12, 83:15, 85:18, 98:3, 101:2, 102:11, 107:9, 109:6, 117:1, 120:24, 121:22, 122:2, 131:4, 134:21, 141:22  
**reappear** <sup>[1]</sup> - 148:19  
**reason** <sup>[20]</sup> - 4:25, 8:11, 11:11, 12:3, 59:15, 65:24, 70:12, 71:16, 95:2, 110:21, 114:20, 116:13, 123:4, 124:2, 127:23, 128:14, 138:2, 138:13, 138:18, 140:7  
**reasonable** <sup>[45]</sup> - 7:18, 7:19, 7:23, 8:10, 8:11, 8:14, 9:7, 11:8, 11:15, 14:5, 14:14, 15:20, 16:17, 16:25, 19:2, 20:17, 23:4, 30:18, 32:25, 33:4, 33:5, 33:12, 34:24, 36:4, 36:10, 57:15, 84:13, 88:6, 89:13, 89:14, 89:20, 100:15, 103:14, 106:22, 119:4, 126:21, 127:17, 127:22, 128:5, 128:13, 128:16, 129:12, 136:24, 140:3, 140:18  
**reasonably** <sup>[3]</sup> - 9:8, 19:17, 36:17  
**reasons** <sup>[6]</sup> - 65:15, 70:7, 74:1, 85:23, 124:11, 133:19  
**recall** <sup>[1]</sup> - 119:25  
**recalls** <sup>[1]</sup> - 55:25  
**received** <sup>[7]</sup> - 13:18, 15:14, 15:16, 16:14, 16:22, 73:19, 149:4  
**receives** <sup>[1]</sup> - 42:19  
**receiving** <sup>[1]</sup> - 119:6  
**recently** <sup>[3]</sup> - 94:18, 107:2, 107:19  
**recess** <sup>[4]</sup> - 5:7, 85:9, 146:10, 148:21  
**reckless** <sup>[1]</sup> - 95:14  
**recognized** <sup>[1]</sup> - 55:19  
**recognizes** <sup>[1]</sup> - 32:4  
**recollection** <sup>[6]</sup> - 9:21, 10:13, 10:15, 74:24, 122:10, 122:15  
**recommend** <sup>[1]</sup> - 115:21  
**recommendations** <sup>[1]</sup> - 16:5  
**reconfigure** <sup>[1]</sup> - 55:2  
**record** <sup>[12]</sup> - 75:25, 76:23, 95:7, 95:12,

96:23, 98:14, 104:3, 148:20, 152:21, 152:25, 153:17, 155:7  
**recorded** <sup>[9]</sup> - 1:24, 59:20, 61:2, 91:10, 91:15, 91:20, 92:23, 100:4  
**recording** <sup>[19]</sup> - 60:7, 61:3, 61:10, 61:15, 65:18, 65:21, 66:10, 66:11, 66:16, 72:10, 103:6, 104:15, 107:12, 107:20, 143:10, 147:2, 147:12, 147:19, 147:22  
**recordings** <sup>[1]</sup> - 61:21  
**records** <sup>[16]</sup> - 76:20, 76:21, 87:13, 87:16, 88:10, 88:17, 97:2, 110:6, 118:2, 118:3, 118:5, 118:12, 118:14, 135:9, 135:15  
**recreate** <sup>[1]</sup> - 87:13  
**red** <sup>[2]</sup> - 52:1, 120:6  
**red-handed** <sup>[1]</sup> - 52:1  
**reduce** <sup>[1]</sup> - 115:21  
**reducing** <sup>[1]</sup> - 127:9  
**reexamine** <sup>[1]</sup> - 34:17  
**referenced** <sup>[1]</sup> - 96:14  
**references** <sup>[1]</sup> - 7:3  
**referred** <sup>[2]</sup> - 32:10, 90:7  
**refreshed** <sup>[1]</sup> - 122:2  
**regard** <sup>[1]</sup> - 151:9  
**regarding** <sup>[4]</sup> - 8:2, 8:4, 23:19, 139:6  
**Regarding** <sup>[1]</sup> - 23:23  
**regardless** <sup>[2]</sup> - 6:19, 123:9  
**registered** <sup>[1]</sup> - 125:2  
**registrations** <sup>[1]</sup> - 95:9  
**regular** <sup>[1]</sup> - 142:18  
**related** <sup>[5]</sup> - 45:11, 56:20, 97:14, 97:16, 105:21  
**relationship** <sup>[3]</sup> - 12:5, 87:2, 116:15  
**relentless** <sup>[1]</sup> - 118:8  
**relevant** <sup>[3]</sup> - 152:13, 152:14, 152:25  
**rely** <sup>[8]</sup> - 8:16, 10:14, 56:16, 57:2, 73:21, 127:20, 128:18, 151:25  
**relying** <sup>[1]</sup> - 107:25  
**remember** <sup>[55]</sup> - 9:14, 34:22, 39:17, 42:14, 42:16, 42:23, 44:9, 44:10, 44:11, 44:13, 47:6, 48:10, 49:12, 52:20, 54:15, 55:20, 60:2, 61:19, 62:6, 64:13, 64:25, 70:23, 71:20, 71:22, 74:11, 74:13, 74:15, 75:12, 76:18, 76:19, 76:20, 77:6, 77:7, 81:9, 81:21, 88:3, 92:2, 96:11, 96:12, 96:13, 96:14, 98:21, 98:23, 108:5, 117:20, 117:22, 117:25, 118:9, 122:4, 133:8, 151:8, 152:1  
**remembered** <sup>[1]</sup> - 96:4  
**remembers** <sup>[9]</sup> - 39:15, 43:17, 53:4, 55:14, 76:2, 76:11, 76:14, 76:15  
**remind** <sup>[2]</sup> - 11:13, 88:23  
**Rene** <sup>[1]</sup> - 95:24  
**renewing** <sup>[1]</sup> - 146:4  
**rental** <sup>[1]</sup> - 54:18  
**Renteria** <sup>[1]</sup> - 101:15  
**reply** <sup>[2]</sup> - 35:13, 146:14  
**report** <sup>[7]</sup> - 50:24, 71:23, 71:24, 77:10, 110:12, 110:21, 136:11

**reporter** <sup>[9]</sup> - 5:2, 5:4, 151:12, 151:16, 154:5, 154:7, 154:9, 154:13, 154:16  
**Reporter** <sup>[4]</sup> - 2:4, 2:4, 155:5, 155:9  
**REPORTER'S** <sup>[1]</sup> - 155:4  
**reporters** <sup>[5]</sup> - 148:5, 149:24, 151:11, 151:17, 154:6  
**reports** <sup>[3]</sup> - 77:11, 77:14, 111:4  
**request** <sup>[1]</sup> - 149:6  
**require** <sup>[1]</sup> - 129:23  
**required** <sup>[1]</sup> - 8:9  
**requires** <sup>[3]</sup> - 37:13, 71:23, 81:4  
**research** <sup>[1]</sup> - 144:21  
**residence** <sup>[9]</sup> - 13:20, 24:24, 25:2, 25:15, 26:3, 26:6, 26:14, 27:22, 139:21  
**resolve** <sup>[1]</sup> - 122:11  
**resolved** <sup>[1]</sup> - 85:14  
**resource** <sup>[1]</sup> - 128:10  
**resources** <sup>[1]</sup> - 133:15  
**respect** <sup>[2]</sup> - 14:4, 14:13  
**responsibility** <sup>[1]</sup> - 84:18  
**responsible** <sup>[2]</sup> - 32:14, 32:18  
**responsive** <sup>[2]</sup> - 75:16, 149:18  
**rest** <sup>[1]</sup> - 117:24  
**restaurant** <sup>[4]</sup> - 41:11, 98:16, 98:18, 98:20  
**restrained** <sup>[1]</sup> - 38:18  
**rests** <sup>[1]</sup> - 7:25  
**result** <sup>[2]</sup> - 15:14, 130:23  
**resulted** <sup>[1]</sup> - 99:20  
**results** <sup>[1]</sup> - 130:10  
**retire** <sup>[3]</sup> - 143:22, 144:4, 150:22  
**return** <sup>[3]</sup> - 22:14, 30:1, 131:22  
**returning** <sup>[1]</sup> - 34:21  
**returns** <sup>[3]</sup> - 88:15, 110:18, 111:10  
**reunited** <sup>[1]</sup> - 115:6  
**reveal** <sup>[1]</sup> - 35:15  
**revealed** <sup>[2]</sup> - 143:7, 143:10  
**reviewed** <sup>[1]</sup> - 4:8  
**reviewing** <sup>[1]</sup> - 39:5  
**reward** <sup>[2]</sup> - 30:13, 30:22  
**Reynosa** <sup>[5]</sup> - 55:16, 62:11, 62:12, 69:23, 115:13  
**Rhino** <sup>[15]</sup> - 42:25, 43:3, 43:16, 44:4, 44:7, 44:18, 44:21, 83:24, 99:17, 105:5, 105:11, 106:9, 106:16, 107:5, 142:6  
**Rhonda** <sup>[6]</sup> - 145:1, 145:7, 145:19, 145:24, 146:6, 148:23  
**Ric** <sup>[1]</sup> - 78:21  
**Ricardo** <sup>[3]</sup> - 13:16, 13:21, 14:13  
**ride** <sup>[1]</sup> - 108:11  
**ridiculous** <sup>[3]</sup> - 109:18, 109:21, 109:22  
**right** <sup>[88]</sup> - 4:4, 4:11, 4:16, 5:5, 5:13, 6:14, 7:1, 13:9, 17:24, 23:21, 28:2, 28:4, 34:3, 35:22, 37:19, 37:23, 42:25, 45:9, 46:5, 49:9, 49:21, 51:6, 52:15, 53:25, 56:17, 58:3, 60:6, 61:19, 61:21, 65:19, 65:22, 66:10, 67:15, 67:20, 68:1, 72:18, 73:14, 73:17, 75:4, 75:8, 75:21, 75:24, 75:25, 76:6, 76:8, 77:5, 77:16,

77:18, 78:15, 78:22, 78:24, 79:4, 79:24,  
81:1, 82:6, 82:11, 84:1, 85:12, 92:2,  
97:15, 98:17, 99:8, 104:22, 108:5,  
115:11, 119:23, 130:7, 136:3, 144:9,  
146:8, 146:11, 146:12, 146:21, 147:15,  
148:3, 148:25, 150:1, 150:16, 150:20,  
151:18, 152:22, 153:6, 153:10, 153:12,  
154:2, 154:18, 154:20, 154:22

**ring** [6] - 60:19, 69:12, 70:16, 74:11,  
74:16, 77:3

**rings** [1] - 70:16

**Rio** [12] - 13:20, 27:23, 28:1, 39:13,  
40:6, 47:7, 68:22, 71:4, 78:2, 106:1,  
142:5, 142:8

**rise** [7] - 5:11, 85:4, 85:10, 144:5,  
148:22, 150:18, 152:4

**risk** [5] - 45:9, 47:15, 51:25, 52:3,  
107:3

**rivals** [1] - 63:9

**River** [1] - 28:1

**river** [4] - 38:19, 38:20, 136:4

**Rivers** [2] - 118:17, 118:18

**RMR** [2] - 2:4, 155:5

**road** [3] - 62:7, 78:21, 108:9

**Road** [4] - 25:15, 26:4, 26:15, 126:5  
**roads** [2] - 66:2, 90:12

**Roel** [12] - 25:23, 26:24, 27:2, 52:6,  
53:17, 54:3, 101:20, 119:23, 119:24,  
132:15, 140:6

**role** [7] - 29:2, 65:12, 84:18, 84:19,  
84:21, 89:24, 96:13

**roles** [1] - 58:21

**Rolexes** [1] - 142:17

**Roma** [1] - 106:1

**Romero** [1] - 25:25

**Romo** [9] - 39:12, 39:13, 40:1, 40:2,  
40:11, 83:18, 94:9, 94:13

**room** [10] - 34:25, 48:25, 49:2, 61:4,  
71:10, 87:18, 117:4, 118:15, 143:23,  
154:12

**Room** [1] - 2:6

**roommates** [1] - 93:12

**rough** [1] - 100:8

**round** [1] - 99:22

**route** [1] - 138:9

**routine** [1] - 52:22

**ROY** [1] - 1:7

**Roy** [158] - 18:25, 19:6, 19:8, 19:16,  
22:22, 23:2, 23:9, 23:11, 24:21, 25:1,  
25:14, 25:17, 25:20, 26:2, 30:9, 30:16,  
30:19, 30:21, 30:23, 30:25, 31:24, 32:1,  
35:25, 37:3, 37:8, 38:6, 41:3, 41:9,  
41:10, 41:14, 43:3, 44:4, 44:7, 52:14,  
52:16, 53:3, 53:4, 53:5, 53:7, 54:17,  
56:8, 57:1, 58:11, 58:16, 62:4, 85:21,  
86:5, 86:7, 87:9, 89:1, 89:14, 89:23,  
91:1, 91:13, 93:7, 93:21, 93:24, 94:8,  
94:10, 94:14, 94:15, 94:17, 94:19, 95:1,  
95:7, 96:19, 96:21, 97:1, 97:5, 97:23,  
98:13, 98:19, 98:25, 99:1, 99:4, 99:11,

99:22, 99:25, 100:8, 101:8, 101:11,  
101:17, 101:22, 102:3, 102:5, 102:8,  
102:20, 103:4, 103:12, 103:20, 104:2,  
104:13, 105:2, 105:22, 106:2, 106:11,  
106:13, 106:25, 107:12, 107:21, 108:4,  
108:7, 108:9, 108:18, 109:4, 109:6,  
109:7, 109:8, 109:25, 110:14, 111:9,  
112:5, 112:9, 112:19, 113:10, 113:16,  
113:17, 114:4, 117:2, 117:8, 117:10,  
117:13, 117:15, 117:16, 119:12,  
119:14, 119:24, 121:2, 121:16, 121:17,  
121:18, 122:1, 122:4, 122:22, 123:4,  
123:6, 123:14, 123:17, 124:8, 124:12,  
124:20, 125:1, 125:6, 125:13, 125:15,  
125:22, 126:8, 127:10, 128:22, 132:21,  
133:10, 133:11, 135:14, 138:21,  
141:13, 143:3, 143:9, 149:8

**Roy's** [7] - 58:12, 86:18, 86:23, 94:12,  
95:17, 95:18, 106:16

**rule** [5] - 6:16, 88:6, 88:7, 88:8, 147:5

**Rule** [2] - 146:4

**ruled** [1] - 145:22

**rules** [6] - 6:2, 6:7, 6:13, 8:2, 17:24,  
144:25

**rumor** [2] - 107:16, 121:21

**rumors** [1] - 114:18

**run** [7] - 93:5, 125:5, 130:11, 131:1,  
131:3, 131:5, 131:7

**running** [3] - 100:10, 111:5, 131:6

**Rusk** [1] - 2:6

## S

**S** [5] - 1:10, 4:1, 4:2

**Saenz** [4] - 41:24, 97:12, 98:10, 141:2

**Saenz-Tamez** [4] - 41:24, 97:12,

98:10, 141:2

**safe** [1] - 45:20

**safely** [1] - 70:3

**said** [90] - 5:17, 9:25, 10:6, 10:9,  
12:13, 12:21, 42:16, 44:14, 44:25,  
48:14, 49:8, 50:11, 51:9, 53:3, 55:15,  
56:2, 56:6, 56:7, 57:5, 58:25, 59:5,  
59:8, 68:10, 69:11, 69:12, 70:15, 70:16,  
71:25, 72:4, 72:7, 72:14, 75:14, 77:3,  
77:7, 77:12, 83:21, 83:23, 86:10, 86:14,  
91:12, 91:14, 91:17, 92:8, 92:15, 93:1,  
93:20, 94:10, 94:17, 94:20, 96:21, 97:7,  
97:8, 97:13, 98:21, 99:6, 99:12, 101:2,  
101:22, 101:23, 102:11, 102:20, 104:5,  
105:22, 109:17, 110:8, 110:20, 113:2,  
113:4, 115:25, 116:1, 116:2, 117:6,  
118:22, 121:17, 123:23, 124:17,  
126:25, 127:23, 128:7, 139:24, 143:6,  
146:15, 148:15, 151:8, 152:1, 152:7,  
153:3, 153:5

**Salad** [2] - 41:11, 41:12

**Salinas** [8] - 74:6, 74:7, 74:22, 75:1,  
76:11, 77:22, 78:17, 85:20

**same** [32] - 12:15, 42:22, 46:12, 46:13,

50:9, 50:14, 56:2, 58:2, 58:5, 63:4,  
74:18, 78:23, 78:24, 78:25, 79:3, 84:8,  
91:16, 98:9, 99:5, 99:7, 114:14, 114:16,  
121:14, 122:8, 125:10, 127:16, 132:15,  
139:24, 144:18, 145:4, 147:16

**San** [2] - 91:23, 92:2

**Sanchez** [13] - 91:3, 91:5, 91:8, 91:11,  
91:19, 91:24, 92:5, 92:6, 92:7, 92:8,  
92:15, 92:22, 92:25

**Sandalio** [2] - 98:7, 98:15

**satisfied** [2] - 7:17, 7:19

**Saturday** [4] - 55:6, 74:12, 74:22,  
74:23

**save** [1] - 63:15

**saves** [1] - 49:15

**saw** [27] - 39:14, 44:11, 45:17, 48:17,  
55:16, 55:19, 58:20, 58:25, 65:4, 75:5,  
90:13, 101:22, 101:23, 101:24, 106:11,  
117:6, 117:16, 118:2, 126:24, 131:21,  
135:25, 136:7, 136:17, 136:21, 147:19  
**say** [70] - 4:25, 9:22, 11:24, 12:18,  
12:21, 21:2, 28:12, 31:15, 39:3, 44:25,  
53:23, 58:11, 58:15, 58:16, 58:19,  
59:14, 60:11, 61:20, 68:12, 69:1, 70:20,  
70:23, 71:6, 71:14, 74:14, 75:4, 80:7,  
86:6, 88:5, 90:11, 97:5, 99:23, 101:9,  
102:14, 105:8, 105:11, 106:1, 107:14,  
108:23, 110:19, 112:3, 114:18, 115:8,  
118:13, 119:3, 119:12, 120:12, 120:20,  
124:14, 125:21, 126:18, 130:9, 130:13,  
131:13, 132:6, 132:8, 135:12, 136:10,  
137:21, 138:1, 138:3, 139:23, 140:17,  
140:24, 146:22, 146:24, 148:8, 148:15,  
154:14

**saying** [17] - 57:16, 62:4, 62:16, 72:11,  
79:8, 88:16, 89:17, 95:7, 103:22, 105:4,  
111:23, 130:1, 130:25, 132:10, 137:5,  
137:14

**says** [84] - 40:4, 40:12, 40:16, 40:25,  
41:4, 41:10, 41:18, 42:1, 42:4, 42:6,  
42:7, 42:9, 42:11, 42:20, 43:2, 43:7,  
44:3, 44:9, 47:10, 47:16, 47:21, 49:6,  
49:13, 50:3, 51:3, 51:11, 51:15, 52:15,  
54:18, 54:21, 55:5, 55:20, 57:17, 57:18,  
64:9, 64:18, 67:19, 67:24, 70:17, 70:23,  
70:25, 71:15, 72:3, 72:19, 74:22, 76:6,  
76:7, 76:24, 77:5, 77:19, 78:17, 79:13,  
92:10, 92:20, 93:3, 94:22, 98:6, 98:7,  
98:19, 99:4, 103:9, 104:23, 105:16,  
106:7, 108:9, 109:4, 117:8, 121:20,  
122:1, 123:14, 124:8, 124:25, 132:3,  
135:13, 135:18, 139:20, 141:2, 141:4,  
141:18, 141:21, 141:25, 149:2

**scanner** [3] - 53:6, 54:24, 55:25

**scanners** [1] - 80:8

**scared** [9] - 51:11, 72:14, 72:18, 93:8,  
94:15, 111:15, 121:17

**Scarface** [1] - 101:19

**scars** [1] - 94:24

**scary** [1] - 93:13

**scene** [3] - 22:2, 29:13, 32:22  
**scheme** [13] - 21:9, 21:12, 21:13, 21:20, 21:22, 28:20, 28:23, 28:24, 29:6, 29:8, 63:16, 154:4  
**Schertz** [2] - 118:19, 119:17  
**school** [14] - 40:21, 59:25, 60:1, 60:5, 60:17, 78:3, 86:16, 88:5, 97:8, 107:2, 138:8, 141:17, 142:22  
**schools** [1] - 66:2  
**scope** [3] - 19:11, 19:17, 36:17  
**screen** [7] - 45:23, 47:5, 47:25, 67:19, 67:20, 67:21, 80:19  
**screenshot** [1] - 87:19  
**screw** [1] - 63:21  
**scripting** [1] - 58:14  
**scrutiny** [1] - 56:21  
**search** [2] - 13:19, 110:22  
**searches** [1] - 111:6  
**seat** [1] - 44:14  
**seated** [5] - 5:8, 5:14, 85:13, 144:9, 150:21  
**second** [18] - 18:19, 19:6, 23:8, 23:9, 30:21, 36:13, 65:24, 70:12, 92:5, 92:14, 131:14, 137:10, 138:12, 139:7, 149:6, 150:12, 152:23  
**secondly** [1] - 149:13  
**secret** [2] - 34:9, 44:12  
**Section** [4] - 18:7, 22:24, 30:11, 30:14  
**section** [1] - 147:7  
**security** [1] - 35:13  
**SECURITY** [7] - 5:11, 85:4, 85:10, 144:5, 148:22, 150:18, 152:4  
**see** [31] - 4:4, 4:25, 12:7, 39:13, 41:13, 45:23, 53:7, 81:18, 84:22, 95:11, 99:19, 101:25, 119:15, 119:16, 123:24, 124:8, 125:15, 125:17, 126:1, 130:6, 130:7, 130:10, 130:12, 130:20, 131:2, 142:20, 148:4, 149:1, 149:2, 149:25  
**seed** [1] - 66:23  
**seeds** [1] - 65:13  
**seeing** [3] - 39:15, 124:7  
**seem** [1] - 12:7  
**seemed** [1] - 109:12  
**seems** [1] - 113:6  
**seen** [6] - 38:21, 102:20, 146:11, 147:20, 148:23, 151:14  
**seized** [1] - 82:19  
**seizures** [1] - 83:8  
**select** [1] - 35:1  
**selected** [1] - 127:25  
**sell** [7] - 43:4, 43:20, 43:21, 47:12, 47:23, 113:12, 114:25  
**selling** [6] - 24:5, 24:9, 47:11, 47:19, 47:22, 102:7  
**send** [5] - 61:10, 64:4, 105:10, 122:12, 125:13  
**sends** [4] - 42:13, 42:18, 46:19  
**sense** [12] - 8:12, 11:11, 70:17, 75:1, 75:2, 79:14, 110:1, 128:3, 128:14, 134:14, 135:12, 137:23

**sent** [12] - 24:12, 24:15, 38:9, 58:3, 62:19, 68:25, 93:2, 93:3, 132:16, 149:4, 151:6  
**sentence** [9] - 16:5, 104:10, 111:17, 115:4, 115:22, 121:10, 127:8, 137:15  
**sentences** [3] - 94:18, 108:16, 108:17  
**sentencing** [3] - 115:23, 121:10, 122:5  
**separate** [2] - 17:15, 94:1  
**separately** [1] - 17:17  
**serious** [3] - 72:15, 113:22, 129:22  
**serve** [1] - 7:4  
**set** [1] - 129:3  
**sets** [2] - 48:1, 49:11  
**setting** [1] - 4:25  
**seven** [3] - 129:25, 130:14, 130:16  
**Seven** [1] - 24:20  
**several** [2] - 15:21, 116:18  
**Shanta** [4] - 74:6, 74:7, 88:15, 114:9  
**Shanta's** [1] - 87:19  
**share** [1] - 20:14  
**shared** [1] - 33:22  
**she** [69] - 12:8, 70:13, 74:8, 74:9, 74:10, 75:1, 75:2, 75:4, 75:7, 75:8, 75:11, 75:14, 75:15, 75:17, 75:18, 75:20, 75:22, 75:23, 75:24, 76:1, 76:11, 76:13, 76:14, 76:15, 76:19, 76:24, 77:2, 77:3, 77:5, 77:7, 77:8, 77:11, 77:12, 77:14, 77:23, 78:3, 78:4, 78:10, 78:16, 78:17, 78:20, 78:22, 78:25, 79:1, 79:3, 79:5, 79:10, 79:11, 79:13, 79:15, 79:18, 93:14, 94:21, 110:19, 113:4, 118:24, 145:4, 145:5, 148:18, 148:19  
**she's** [10] - 75:2, 75:3, 75:19, 76:13, 76:16, 77:1, 78:2, 79:7, 79:12, 154:14  
**sheer** [1] - 126:13  
**shift** [2] - 53:17, 53:20  
**shifts** [3] - 8:1, 51:17, 143:19  
**shipped** [1] - 100:18  
**shit** [1] - 107:18  
**shocked** [3] - 85:18, 85:23, 86:4  
**shooting** [2] - 50:15, 50:16  
**shootings** [1] - 50:25  
**shop** [2] - 24:22, 141:19  
**short** [2] - 5:8, 108:22  
**shot** [3] - 25:10, 50:17, 50:22  
**should** [40] - 6:9, 10:9, 10:11, 10:12, 10:14, 10:16, 10:22, 11:5, 11:23, 12:14, 15:15, 15:18, 16:13, 16:15, 16:22, 17:17, 17:19, 17:21, 17:22, 19:17, 35:1, 35:8, 35:12, 36:17, 57:23, 65:15, 93:16, 96:25, 100:12, 110:9, 112:14, 112:18, 113:11, 114:13, 129:8, 131:23, 134:6, 140:16, 151:1  
**shouldn't** [2] - 146:15, 152:20  
**show** [13] - 44:25, 73:17, 73:18, 73:19, 73:22, 73:25, 77:10, 97:18, 114:3, 118:14, 123:7, 151:13, 153:13  
**showed** [3] - 25:18, 25:21, 142:20  
**showing** [1] - 12:19  
**shown** [1] - 123:5

**shows** [9] - 48:2, 48:3, 48:4, 55:20, 118:16, 118:17, 118:18, 126:8, 135:16  
**shut** [1] - 100:12  
**si** [1] - 109:2  
**sicarios** [2] - 38:10, 46:20  
**side** [12] - 6:24, 9:17, 17:8, 17:10, 36:23, 48:14, 67:19, 67:20, 67:21, 84:2, 84:3, 90:12  
**sided** [1] - 62:13  
**sides** [6] - 80:21, 141:11, 146:11, 146:12, 146:13, 153:8  
**sign** [2] - 35:8, 47:13  
**signed** [4] - 71:11, 71:12, 78:10  
**significance** [1] - 119:21  
**significant** [1] - 9:17  
**signs** [2] - 37:11, 112:7  
**similar** [5] - 13:13, 14:8, 14:12, 14:17, 14:22  
**similarly** [2] - 21:21, 29:7  
**simple** [3] - 45:10, 134:9, 137:17  
**simplistic** [1] - 139:4  
**simply** [6] - 17:7, 19:22, 132:2, 133:13, 140:3, 140:18  
**simultaneous** [1] - 96:1  
**since** [8] - 51:23, 84:15, 87:8, 102:18, 109:12, 109:15, 146:1  
**single** [6] - 58:16, 58:17, 81:25, 114:1, 114:12, 140:4  
**sister** [2] - 100:10, 100:11  
**sit** [1] - 45:15  
**site** [2] - 135:9, 135:15  
**sitting** [2] - 94:22, 97:23  
**situation** [1] - 95:14  
**six** [5] - 24:17, 67:16, 69:24, 119:17  
**skeptical** [1] - 116:9  
**skepticism** [1] - 116:24  
**slate** [1] - 7:14  
**Slide** [1] - 39:6  
**slide** [13] - 41:20, 45:5, 46:11, 46:17, 56:9, 62:10, 62:25, 65:11, 73:11, 79:21, 81:20, 81:21, 84:11  
**slides** [1] - 109:24  
**smaller** [1] - 108:21  
**smart** [1] - 122:20  
**smelled** [2] - 42:16, 64:13  
**Smith** [3] - 2:4, 155:5, 155:9  
**so** [153] - 4:6, 5:9, 5:10, 5:19, 7:24, 9:6, 9:11, 9:18, 11:15, 34:13, 39:4, 41:7, 42:9, 47:18, 48:1, 48:11, 48:14, 48:16, 49:11, 49:24, 50:9, 51:2, 51:5, 51:21, 53:7, 53:17, 54:13, 54:17, 54:24, 56:10, 58:10, 60:8, 60:25, 62:2, 62:7, 63:15, 63:21, 64:3, 65:7, 65:8, 65:13, 66:18, 69:4, 70:4, 73:4, 74:2, 75:11, 75:17, 76:9, 76:24, 77:1, 77:14, 77:20, 77:25, 79:10, 80:19, 81:4, 81:9, 81:15, 82:3, 82:9, 82:18, 83:4, 84:7, 85:13, 86:24, 87:7, 88:12, 90:1, 90:2, 90:15, 90:19, 92:20, 93:21, 96:23, 98:4, 98:6, 98:11, 98:23, 101:3, 101:13, 103:8, 103:25,

104:20, 107:11, 107:14, 108:4, 109:15,  
110:14, 111:8, 114:25, 115:4, 116:5,  
117:1, 117:12, 118:8, 119:21, 120:4,  
120:9, 120:23, 121:1, 121:5, 121:11,  
121:24, 124:8, 124:10, 125:5, 127:2,  
127:16, 127:19, 129:11, 130:9, 133:5,  
134:24, 135:8, 135:19, 136:7, 136:13,  
138:9, 138:10, 138:17, 139:3, 139:25,  
140:1, 140:12, 140:16, 140:23, 142:7,  
143:20, 143:22, 144:14, 144:24, 145:1,  
145:4, 145:11, 146:13, 147:21, 148:15,  
149:21, 150:4, 150:24, 151:15, 151:21,  
151:24, 152:24, 153:7, 153:20, 154:11,  
154:23

**so-and-so** [2] - 135:8

**so..** [1] - 146:2

**sold** [8] - 25:4, 41:15, 43:13, 43:22,  
49:25, 51:12, 51:15

**soldiers** [1] - 62:2

**sole** [3] - 11:18, 20:12, 20:14

**solely** [3] - 6:21, 10:2, 34:19

**solve** [1] - 56:15

**some** [73] - 5:17, 6:3, 12:20, 21:5,  
22:9, 22:15, 22:18, 23:17, 28:16, 29:20,  
30:2, 30:6, 30:13, 30:22, 32:19, 33:7,  
33:14, 34:1, 34:4, 42:5, 42:6, 43:3,  
47:23, 48:4, 49:10, 51:10, 52:5, 59:11,  
62:9, 64:8, 65:13, 69:10, 69:11, 69:24,  
82:6, 82:21, 84:1, 84:2, 91:8, 99:5,  
99:11, 100:17, 107:21, 108:4, 113:20,  
114:19, 114:21, 116:2, 120:8, 123:4,  
124:2, 124:23, 126:6, 126:12, 129:22,  
130:10, 130:20, 130:22, 131:1, 132:13,  
132:14, 133:3, 134:24, 135:6, 135:10,  
138:15, 139:20, 140:18, 141:19,  
145:22, 148:9, 151:22

**somebody** [17] - 93:2, 102:10, 103:19,  
106:8, 110:11, 120:24, 125:13, 127:4,  
127:11, 127:12, 130:6, 138:23, 138:25,  
150:4, 154:4

**somebody's** [1] - 125:25

**somehow** [1] - 106:23

**someone** [21] - 4:25, 18:8, 56:19, 66:4,  
66:12, 77:15, 78:1, 80:2, 81:24, 82:1,  
82:16, 82:19, 87:17, 91:24, 120:2,  
123:7, 123:20, 127:12, 128:7, 130:12,  
133:4

**someone's** [3] - 66:10, 95:10, 140:2

**something** [30] - 11:1, 12:21, 12:22,  
21:2, 28:11, 31:15, 66:4, 68:25, 71:13,  
71:14, 80:4, 82:11, 89:13, 89:22,  
105:12, 109:4, 118:5, 118:6, 119:5,  
119:6, 120:19, 124:22, 127:19, 129:8,  
130:5, 130:23, 138:14, 144:22, 154:5

**sometimes** [3] - 32:10, 84:3, 108:16

**somewhere** [7] - 99:12, 105:25, 106:1,  
118:14, 129:25, 130:1, 137:12

**son** [1] - 50:3

**sonogram** [2] - 117:17, 117:19

**soon** [3] - 4:23, 59:3, 70:16

**sorry** [6] - 50:22, 85:13, 90:16, 124:3,  
131:13, 139:7

**sort** [2] - 124:21, 130:22

**sought** [1] - 33:19

**sounds** [4] - 66:10, 66:11, 66:12,  
104:2

**source** [4] - 62:17, 65:1, 65:19, 67:9

**South** [5] - 13:18, 40:16, 40:19, 41:8,  
73:18

**south** [2] - 62:18, 141:25

**Southern** [1] - 155:5

**SOUTHERN** [1] - 1:1

**southern** [1] - 2:5

**space** [1] - 35:6

**Spanish** [6] - 61:4, 66:8, 66:9, 108:2,  
108:16, 109:2

**speak** [5] - 35:2, 39:3, 66:8, 66:9,  
109:2

**speaks** [1] - 67:12

**Special** [1] - 36:14

**special** [7] - 4:5, 4:6, 6:14, 8:3, 36:5,  
36:8, 83:12

**specific** [9] - 6:7, 21:1, 28:11, 31:14,  
34:3, 74:24, 92:7, 147:1, 147:22

**specifically** [3] - 18:1, 76:15, 95:21

**specified** [1] - 8:19

**spectator** [1] - 33:2

**speculate** [1] - 9:25

**speeding** [3] - 73:13, 73:14, 79:6

**spend** [2] - 90:24, 96:10

**spending** [1] - 116:5

**spent** [3] - 89:17, 109:11, 117:11

**split** [1] - 72:5

**spoke** [1] - 114:12

**stacked** [1] - 42:15

**stakes** [2] - 133:2, 133:5

**stamp** [6] - 48:11, 78:24, 87:17, 118:3,  
119:2, 131:22

**stamps** [1] - 119:7

**stand** [6] - 72:7, 86:6, 86:24, 103:18,  
114:9

**standard** [2] - 129:6, 129:13

**stands** [1] - 35:16

**staring** [1] - 94:24

**start** [22] - 5:6, 39:4, 39:7, 39:9, 40:5,  
40:12, 50:15, 50:16, 51:21, 52:19, 55:2,  
67:20, 82:8, 113:6, 125:21, 130:5,  
139:12, 146:14, 150:25, 151:4, 152:22,  
153:10

**started** [1] - 122:4

**starting** [1] - 152:17

**starts** [8] - 7:13, 40:14, 90:5, 90:8,  
140:20, 141:7, 152:16, 153:1

**stash** [1] - 24:1

**stashed** [1] - 64:17

**State** [1] - 78:23

**state** [4] - 6:16, 14:9, 14:19, 123:1

**stated** [3] - 9:8, 21:19, 29:5

**statement** [4] - 13:3, 13:4, 59:20,

113:24

**statements** [7] - 9:14, 12:24, 13:1,  
13:2, 13:4, 88:1, 133:13

**States** [24] - 2:5, 18:6, 18:9, 22:23,  
23:1, 24:13, 24:16, 30:10, 30:14, 31:20,  
40:6, 47:3, 51:1, 61:25, 66:18, 68:23,  
91:9, 93:25, 109:5, 109:7, 109:8, 115:1,  
120:22, 155:5

**STATES** [3] - 1:1, 1:4, 1:11

**station** [1] - 99:6

**stay** [4] - 69:24, 71:8, 78:11, 115:16

**stayed** [3] - 70:7, 70:12, 70:13

**staying** [2] - 74:19, 78:15

**stays** [1] - 48:7

**stealing** [1] - 102:7

**stenography** [1] - 1:24

**step** [5] - 5:5, 140:12, 140:15, 144:7,  
146:9

**stick** [1] - 54:14

**still** [15] - 50:10, 62:6, 71:4, 84:4, 84:5,  
87:3, 98:16, 100:6, 102:11, 121:10,  
122:5, 125:22, 132:12, 135:17, 144:24

**stipulated** [1] - 65:18

**stipulation** [1] - 9:13

**stock** [2] - 130:4, 130:16

**stole** [12] - 24:1, 38:12, 50:2, 51:4,

54:8, 54:9, 80:12, 99:11, 138:15,

138:16, 138:23, 149:5

**stolen** [7] - 46:15, 47:13, 47:14, 47:20,  
48:22, 82:23, 136:9

**stomach** [1] - 50:18

**stop** [2] - 90:18, 132:23

**stopped** [2] - 46:1, 141:25

**stops** [2] - 141:8, 153:6

**store** [6] - 47:23, 47:24, 47:25, 48:2,

48:16, 48:19

**stored** [1] - 24:24

**stories** [3] - 59:13, 88:3, 119:1

**story** [9] - 52:17, 65:16, 86:18, 86:23,  
87:10, 87:22, 87:23, 88:23, 123:25

**straight** [1] - 53:23

**street** [2] - 93:11, 115:14

**Street** [3] - 1:16, 1:19, 2:2

**stretch** [1] - 85:2

**strict** [1] - 8:6

**struck** [1] - 141:11

**stuck** [1] - 114:16

**studying** [1] - 107:2

**stuff** [11] - 42:5, 62:2, 62:13, 64:4,  
100:3, 100:6, 120:16, 132:15, 136:5,  
145:11

**stuffed** [1] - 38:18

**submit** [1] - 124:7

**subpoena** [1] - 126:8

**substance** [14] - 18:12, 18:14, 18:16,  
18:18, 18:19, 18:22, 19:12, 19:14,  
19:18, 19:20, 19:24, 36:14, 36:16,  
66:15

**substances** [6] - 8:22, 18:9, 18:23,  
36:1, 36:9, 96:2

**substantial** <sup>[1]</sup> - 124:6  
**substitute** <sup>[1]</sup> - 6:17  
**succeeded** <sup>[2]</sup> - 22:1, 29:12  
**successful** <sup>[8]</sup> - 33:20, 53:11, 56:4, 59:8, 80:5, 110:4, 112:10, 127:10  
**such** <sup>[16]</sup> - 7:16, 8:15, 10:24, 11:8, 15:15, 15:19, 16:5, 16:11, 16:13, 21:25, 29:11, 31:1, 32:14, 32:16, 116:22, 128:17  
**sufficient** <sup>[6]</sup> - 7:21, 16:12, 21:13, 28:24, 32:24  
**suggest** <sup>[8]</sup> - 12:1, 44:7, 80:16, 129:2, 129:5, 133:7, 149:15  
**suggestions** <sup>[3]</sup> - 146:21, 147:4, 152:12  
**Suite** <sup>[2]</sup> - 1:16, 1:20  
**summarize** <sup>[2]</sup> - 134:5  
**summary** <sup>[1]</sup> - 16:21  
**summer** <sup>[1]</sup> - 71:6  
**Sunday** <sup>[1]</sup> - 74:16  
**Superseding** <sup>[1]</sup> - 23:23  
**superseding** <sup>[23]</sup> - 7:4, 7:7, 7:10, 8:18, 9:9, 13:14, 14:1, 14:7, 14:11, 14:16, 14:20, 17:2, 17:16, 18:4, 21:22, 22:21, 23:16, 23:19, 29:8, 30:8, 34:8, 35:6, 35:17  
**supervision** <sup>[1]</sup> - 102:10  
**suppliers** <sup>[1]</sup> - 99:14  
**supply** <sup>[2]</sup> - 62:17, 67:9  
**support** <sup>[2]</sup> - 73:12, 114:1  
**supports** <sup>[1]</sup> - 130:25  
**supposed** <sup>[3]</sup> - 53:15, 92:12, 104:7  
**supposedly** <sup>[2]</sup> - 114:5, 131:4  
**sure** <sup>[21]</sup> - 4:16, 45:7, 48:10, 74:16, 74:20, 80:17, 92:16, 92:18, 92:19, 92:21, 103:10, 104:13, 107:10, 109:3, 110:25, 114:20, 127:25, 145:20, 146:3, 151:3, 151:18  
**surveillance** <sup>[17]</sup> - 26:17, 26:22, 26:25, 27:5, 27:11, 27:17, 52:20, 54:14, 54:23, 55:8, 65:4, 87:14, 105:5, 105:6, 105:9, 111:5, 134:25  
**surveilled** <sup>[1]</sup> - 91:20  
**suspect** <sup>[3]</sup> - 70:19, 111:21, 123:9  
**suspects** <sup>[1]</sup> - 134:21  
**sustain** <sup>[1]</sup> - 16:13  
**sustained** <sup>[1]</sup> - 9:23  
**sworn** <sup>[2]</sup> - 6:12, 9:12  
**sympathy** <sup>[4]</sup> - 6:22, 6:23, 126:14, 133:3  
**system** <sup>[1]</sup> - 127:24

## T

**table** <sup>[1]</sup> - 94:23  
**tactic** <sup>[1]</sup> - 111:22  
**take** <sup>[21]</sup> - 10:14, 41:9, 43:15, 45:8, 52:3, 64:23, 70:5, 85:1, 86:22, 116:8, 117:18, 122:20, 126:10, 126:11, 128:7, 132:23, 133:5, 138:9, 145:11, 151:11,

152:9  
**Take** <sup>[1]</sup> - 41:10  
**taken** <sup>[12]</sup> - 38:19, 48:20, 53:19, 82:10, 82:22, 83:4, 84:16, 84:18, 91:21, 117:17, 139:17, 139:18  
**takes** <sup>[6]</sup> - 7:8, 43:16, 50:18, 71:5, 84:6, 127:11  
**taking** <sup>[4]</sup> - 74:13, 117:3, 119:15, 126:16  
**Talivan** <sup>[1]</sup> - 101:19  
**talk** <sup>[38]</sup> - 17:25, 48:11, 49:9, 57:22, 57:23, 58:11, 59:23, 60:14, 61:21, 64:3, 64:7, 67:13, 70:14, 74:3, 74:6, 75:23, 78:14, 97:24, 103:6, 112:25, 113:3, 114:10, 114:11, 114:17, 114:21, 116:1, 118:23, 124:23, 125:15, 137:1, 137:3, 141:10, 141:15, 144:19, 149:16, 150:7, 151:5  
**talked** <sup>[10]</sup> - 52:18, 62:19, 96:15, 99:3, 111:13, 114:10, 114:12, 115:16, 123:3, 133:3  
**talking** <sup>[29]</sup> - 39:7, 40:14, 50:11, 52:9, 61:15, 61:19, 64:16, 66:4, 66:12, 67:3, 67:15, 70:24, 71:3, 79:7, 93:16, 96:7, 100:3, 100:5, 103:18, 103:22, 104:18, 113:24, 122:4, 123:4, 124:6, 125:14, 125:18, 131:25, 132:15  
**talks** <sup>[5]</sup> - 47:21, 52:8, 64:18, 64:20, 67:18  
**tall** <sup>[1]</sup> - 108:22  
**Tamez** <sup>[4]</sup> - 41:24, 97:12, 98:10, 141:2  
**tape** <sup>[6]</sup> - 25:21, 59:24, 64:18, 67:12, 134:25, 143:10  
**target** <sup>[5]</sup> - 38:10, 51:18, 53:18, 102:6, 102:19  
**targeted** <sup>[3]</sup> - 38:14, 38:16, 58:5  
**targeting** <sup>[1]</sup> - 56:19  
**task** <sup>[1]</sup> - 112:8  
**tax** <sup>[7]</sup> - 62:8, 63:14, 77:10, 88:15, 110:18, 111:10, 131:22  
**team** <sup>[2]</sup> - 46:19, 129:22  
**techniques** <sup>[1]</sup> - 111:19  
**tell** <sup>[39]</sup> - 12:3, 39:22, 44:1, 48:23, 49:6, 49:9, 53:23, 54:4, 54:7, 58:25, 61:20, 65:23, 67:8, 67:17, 68:1, 70:21, 73:2, 74:9, 79:15, 86:24, 87:10, 98:24, 113:9, 116:8, 116:13, 118:24, 123:10, 124:11, 126:20, 136:19, 136:21, 137:8, 145:8, 147:21, 150:6, 150:8  
**telling** <sup>[19]</sup> - 44:1, 58:2, 58:15, 61:16, 62:21, 63:23, 64:22, 66:1, 67:9, 71:13, 72:25, 111:20, 115:10, 122:13, 124:24, 132:18, 132:19, 139:25, 147:24  
**tells** <sup>[31]</sup> - 41:12, 43:2, 47:4, 50:24, 51:2, 52:17, 53:9, 53:17, 54:11, 54:15, 54:23, 55:3, 55:11, 55:14, 63:20, 67:25, 68:3, 68:6, 69:22, 70:17, 74:2, 75:2, 77:23, 90:17, 92:15, 116:9, 120:9, 123:25, 135:7, 139:15, 139:20  
**Templarios** <sup>[2]</sup> - 62:14, 62:17

**tempted** <sup>[2]</sup> - 146:14, 146:24  
**Ten** <sup>[1]</sup> - 25:3  
**ten** <sup>[2]</sup> - 104:10, 135:25  
**term** <sup>[7]</sup> - 20:1, 20:20, 20:24, 28:5, 28:9, 31:3, 31:12  
**terminated** <sup>[1]</sup> - 65:19  
**terms** <sup>[2]</sup> - 137:10, 140:19  
**terrible** <sup>[2]</sup> - 4:22, 97:25  
**territorial** <sup>[2]</sup> - 31:20, 31:21  
**test** <sup>[3]</sup> - 130:10, 130:22, 131:3  
**testified** <sup>[13]</sup> - 11:22, 12:8, 12:19, 44:20, 59:25, 72:13, 75:7, 78:16, 101:9, 114:19, 114:23, 123:5, 140:7  
**testifies** <sup>[2]</sup> - 115:25, 123:16  
**testify** <sup>[14]</sup> - 72:24, 93:8, 94:14, 94:16, 94:19, 96:7, 107:4, 110:18, 116:4, 117:15, 118:25, 136:1, 136:17, 137:19  
**testifying** <sup>[3]</sup> - 16:11, 17:10, 137:15  
**testimony** <sup>[92]</sup> - 9:13, 10:3, 10:4, 10:19, 10:24, 11:8, 11:20, 11:22, 11:25, 12:11, 12:14, 12:16, 12:18, 12:22, 13:5, 13:10, 14:4, 14:13, 15:3, 15:4, 15:8, 15:11, 15:15, 15:19, 15:20, 16:11, 16:14, 16:16, 16:17, 44:13, 48:11, 48:24, 56:14, 56:22, 57:2, 57:13, 57:18, 60:2, 60:19, 62:18, 69:5, 69:8, 69:9, 69:14, 71:17, 71:20, 73:21, 75:6, 76:11, 77:17, 84:12, 85:17, 85:22, 86:6, 86:7, 89:25, 93:22, 94:9, 104:20, 114:11, 116:6, 116:24, 119:13, 119:25, 122:10, 122:12, 122:14, 123:19, 125:24, 126:6, 133:9, 137:12, 137:22, 138:14, 139:3, 139:8, 141:11, 147:6, 147:13, 147:17, 147:20, 147:25, 149:3, 150:1, 151:10, 151:25, 152:7  
**tests** <sup>[2]</sup> - 130:11, 131:1  
**Tetin** <sup>[49]</sup> - 47:1, 47:18, 47:21, 48:2, 48:6, 48:9, 48:14, 48:20, 49:1, 49:17, 49:22, 50:21, 50:24, 51:2, 51:5, 51:6, 52:12, 54:5, 54:7, 54:11, 54:12, 54:15, 54:20, 54:21, 55:3, 55:5, 55:11, 62:19, 68:3, 68:4, 76:2, 76:6, 91:6, 91:9, 91:10, 91:12, 92:5, 92:8, 92:10, 92:15, 93:9, 93:22, 100:18, 101:2, 114:23, 117:8, 118:8, 119:21, 124:25  
**Texan** <sup>[1]</sup> - 78:2  
**TEXAS** <sup>[2]</sup> - 1:1, 1:5  
**Texas** <sup>[32]</sup> - 1:17, 1:20, 1:23, 2:2, 2:5, 2:7, 13:18, 24:2, 25:16, 26:4, 26:15, 40:16, 40:19, 41:8, 47:8, 54:13, 54:19, 71:4, 73:9, 73:18, 78:2, 78:3, 78:21, 78:23, 79:7, 79:8, 80:9, 83:4, 96:3, 102:4, 155:6  
**text** <sup>[2]</sup> - 71:2, 104:5  
**texting** <sup>[1]</sup> - 104:8  
**texts** <sup>[1]</sup> - 104:9  
**than** <sup>[33]</sup> - 5:3, 10:18, 15:8, 17:8, 19:13, 19:19, 36:20, 36:21, 36:23, 36:24, 36:25, 47:12, 83:13, 83:20, 85:21, 85:23, 86:7, 87:11, 88:7, 89:25,

93:22, 95:2, 104:20, 108:21, 132:11, 134:4, 142:16, 149:21, 152:8, 152:15  
**thank**<sup>[15]</sup> - 4:15, 84:24, 84:25, 85:16, 112:21, 129:17, 133:20, 133:21, 134:3, 143:12, 143:13, 144:3, 145:13, 152:3, 153:22

**that**<sup>[821]</sup> - 4:4, 4:25, 5:2, 6:2, 6:11, 6:23, 6:24, 7:4, 7:8, 7:13, 7:17, 7:20, 8:7, 8:9, 8:15, 8:18, 8:25, 9:3, 9:5, 9:7, 9:14, 9:17, 9:19, 9:21, 10:4, 10:6, 11:1, 11:5, 11:11, 11:17, 11:24, 12:1, 12:12, 12:19, 12:20, 13:1, 13:2, 13:7, 13:8, 13:10, 13:19, 14:6, 14:15, 14:23, 14:25, 15:13, 15:15, 16:13, 16:17, 16:18, 16:25, 17:10, 17:11, 17:17, 18:12, 18:17, 18:19, 18:21, 19:1, 19:3, 19:6, 19:8, 19:9, 19:11, 19:16, 19:17, 20:1, 20:16, 20:17, 20:20, 20:21, 20:24, 20:25, 21:2, 21:12, 21:13, 21:17, 21:18, 21:21, 21:24, 21:25, 22:4, 22:9, 22:13, 22:15, 23:3, 23:5, 23:11, 23:14, 23:25, 24:8, 25:12, 28:5, 28:6, 28:9, 28:10, 28:11, 28:12, 28:23, 28:24, 29:4, 29:5, 29:7, 29:10, 29:11, 29:14, 29:15, 29:20, 29:25, 30:2, 30:3, 30:17, 30:19, 30:21, 30:23, 30:25, 31:3, 31:12, 31:13, 31:15, 31:23, 31:25, 32:4, 32:18, 32:23, 33:1, 33:5, 33:7, 33:11, 33:13, 33:15, 33:17, 33:19, 33:22, 33:25, 35:9, 35:15, 36:13, 36:17, 38:3, 38:7, 38:13, 38:15, 38:16, 38:22, 38:24, 39:3, 39:5, 39:16, 39:17, 40:1, 40:11, 40:21, 41:21, 42:1, 42:8, 42:10, 42:19, 42:20, 42:21, 42:22, 42:24, 43:2, 43:11, 43:15, 43:17, 44:10, 44:13, 44:18, 44:21, 44:24, 45:3, 45:7, 45:9, 45:16, 45:17, 45:22, 45:23, 45:24, 46:3, 46:13, 46:18, 47:13, 47:16, 48:6, 48:10, 48:14, 48:17, 48:21, 49:2, 49:3, 49:7, 49:10, 49:16, 50:9, 50:19, 50:25, 51:4, 51:12, 51:19, 51:23, 51:24, 52:17, 52:18, 53:5, 53:8, 53:19, 53:20, 54:2, 54:4, 54:7, 54:13, 54:20, 55:5, 55:21, 55:24, 56:7, 56:24, 57:9, 57:16, 57:24, 58:3, 58:4, 58:6, 58:9, 58:10, 58:23, 58:24, 59:5, 59:20, 59:25, 60:2, 60:9, 60:16, 60:18, 60:19, 61:11, 62:7, 62:8, 62:9, 62:13, 62:22, 63:5, 63:10, 63:17, 64:1, 64:3, 64:5, 64:17, 64:18, 64:25, 65:6, 65:16, 65:18, 65:24, 66:11, 67:1, 67:11, 68:5, 68:6, 68:8, 68:14, 68:17, 68:18, 69:12, 70:2, 70:13, 70:15, 70:17, 71:15, 71:18, 72:1, 72:3, 72:8, 72:9, 72:11, 72:12, 72:14, 72:17, 72:24, 73:6, 73:9, 73:12, 73:22, 73:23, 74:4, 74:11, 74:20, 75:5, 75:7, 75:8, 75:9, 75:11, 75:12, 75:15, 75:17, 75:18, 75:20, 75:22, 75:25, 76:1, 76:2, 76:5, 76:6, 76:11, 76:13, 76:14, 76:18, 77:3, 77:4, 77:6, 77:12, 77:18, 78:4, 78:6, 78:10, 78:16, 78:22, 79:3, 79:4, 79:17, 80:4, 80:12, 80:14, 80:17, 80:21, 80:23, 81:2,

81:4, 81:10, 81:13, 81:14, 81:22, 82:2, 82:4, 82:5, 82:6, 82:7, 82:9, 82:10, 82:15, 82:19, 82:21, 82:24, 83:3, 83:9, 83:10, 83:13, 83:15, 83:22, 83:24, 84:17, 84:22, 85:13, 85:18, 85:19, 85:20, 85:21, 85:24, 86:1, 86:5, 86:7, 86:10, 86:11, 86:24, 87:3, 87:9, 87:13, 87:14, 87:18, 87:20, 88:2, 88:19, 88:25, 89:3, 89:8, 89:10, 89:12, 89:15, 89:18, 89:23, 90:3, 90:11, 90:14, 90:15, 90:23, 90:25, 91:12, 91:14, 91:15, 91:24, 91:25, 92:1, 92:4, 92:7, 92:12, 92:13, 92:23, 92:24, 92:25, 93:6, 93:9, 93:10, 93:16, 93:19, 93:21, 93:22, 93:24, 94:2, 94:3, 94:4, 94:8, 94:10, 94:11, 94:24, 95:2, 95:3, 95:8, 95:14, 95:20, 95:22, 95:23, 95:24, 95:25, 96:4, 96:6, 96:9, 96:11, 96:23, 96:24, 96:25, 97:1, 97:14, 97:17, 97:21, 97:24, 98:1, 98:2, 98:3, 98:4, 98:8, 98:9, 98:14, 98:22, 98:25, 99:1, 99:8, 99:9, 99:12, 99:16, 99:20, 100:8, 100:11, 100:14, 100:15, 100:18, 100:19, 101:10, 101:12, 101:13, 101:20, 101:22, 101:25, 102:3, 102:8, 102:14, 102:15, 102:16, 102:21, 102:22, 103:4, 103:5, 103:10, 103:17, 103:19, 103:21, 104:1, 104:6, 104:7, 104:13, 104:15, 104:18, 104:21, 104:23, 105:2, 105:4, 105:11, 105:14, 105:19, 105:23, 106:3, 106:8, 106:12, 106:17, 106:23, 106:24, 107:8, 107:12, 107:14, 107:16, 107:17, 107:21, 107:22, 107:24, 107:25, 108:1, 108:23, 109:9, 109:10, 109:12, 109:14, 109:16, 109:18, 109:19, 109:22, 109:23, 110:2, 110:3, 110:8, 110:9, 110:12, 110:17, 110:18, 110:20, 110:21, 110:25, 111:1, 111:11, 111:12, 111:19, 111:20, 112:6, 112:9, 112:13, 112:15, 112:20, 113:9, 113:16, 113:17, 113:23, 114:1, 114:4, 114:6, 114:8, 114:13, 114:14, 114:15, 114:16, 114:21, 114:23, 114:25, 115:3, 115:4, 115:5, 115:19, 115:21, 115:22, 115:23, 116:3, 116:17, 117:6, 117:7, 117:19, 117:23, 118:6, 118:10, 118:16, 119:4, 119:5, 119:7, 119:8, 119:9, 119:21, 120:11, 120:16, 120:25, 121:3, 121:4, 121:5, 121:22, 121:23, 122:11, 122:12, 122:14, 122:15, 122:22, 123:7, 123:9, 123:10, 123:20, 124:10, 124:11, 124:19, 124:23, 125:2, 125:8, 125:10, 125:13, 125:20, 125:22, 126:7, 126:8, 126:10, 126:11, 126:12, 126:15, 126:23, 127:2, 127:5, 127:7, 127:8, 127:13, 127:14, 127:16, 127:18, 127:19, 127:20, 127:25, 128:1, 128:6, 128:10, 128:12, 128:13, 128:17, 129:2, 129:8, 129:9, 129:13, 129:18, 129:21, 130:2, 130:5, 130:6, 130:11, 130:23, 130:24, 131:3, 131:5, 131:6, 131:9, 131:10, 131:11, 131:16, 131:17,

131:18, 131:19, 131:23, 132:7, 132:8, 132:11, 132:13, 132:16, 132:22, 133:7, 133:8, 133:9, 133:11, 133:13, 133:14, 133:15, 133:16, 134:11, 134:15, 134:24, 135:11, 135:13, 135:16, 135:17, 135:18, 135:19, 135:20, 135:21, 136:1, 136:12, 136:16, 136:17, 136:18, 136:24, 137:3, 137:4, 137:11, 137:13, 137:16, 137:20, 137:21, 137:23, 137:25, 138:2, 138:4, 138:8, 138:9, 138:13, 138:17, 138:23, 138:25, 139:1, 139:4, 139:6, 139:15, 139:16, 139:22, 139:23, 140:2, 140:7, 140:8, 140:15, 140:16, 141:6, 141:7, 141:15, 141:18, 142:1, 142:2, 142:9, 142:11, 142:13, 142:15, 142:16, 142:19, 142:20, 142:23, 143:1, 143:2, 143:3, 143:9, 143:10, 144:25, 145:8, 145:21, 146:20, 146:23, 147:2, 147:6, 147:7, 147:9, 147:11, 147:22, 147:24, 148:6, 148:7, 148:9, 148:12, 149:3, 149:7, 149:18, 150:1, 150:6, 150:13, 150:22, 151:13, 151:25, 152:1, 152:10, 153:8, 153:11, 153:13, 155:6

**that's**<sup>[111]</sup> - 5:10, 37:15, 45:12, 51:13, 51:17, 53:25, 56:8, 56:17, 56:18, 57:5, 57:7, 57:8, 58:13, 58:22, 60:20, 62:13, 65:1, 65:5, 65:14, 66:20, 66:21, 69:3, 70:1, 70:10, 71:8, 71:14, 72:17, 73:25, 75:1, 75:23, 76:2, 76:3, 76:8, 76:10, 77:14, 78:9, 80:13, 82:3, 83:6, 84:16, 86:11, 86:19, 86:20, 87:20, 88:13, 89:9, 90:2, 90:11, 90:25, 92:16, 93:13, 94:4, 94:18, 95:3, 95:16, 95:23, 96:24, 101:5, 103:13, 104:19, 108:8, 108:11, 109:21, 109:22, 113:18, 114:20, 120:24, 122:23, 123:25, 124:21, 125:18, 126:14, 126:18, 128:20, 128:21, 128:22, 128:23, 129:11, 129:20, 129:23, 130:23, 131:4, 131:25, 132:21, 133:24, 135:14, 135:21, 136:5, 136:23, 137:7, 137:8, 137:14, 137:17, 138:6, 139:2, 141:5, 141:7, 141:16, 142:19, 142:21, 143:3, 144:16, 145:4, 148:1, 149:17, 151:24, 153:24

**THE**<sup>[62]</sup> - 1:10, 1:14, 1:18, 4:4, 4:11, 4:16, 5:8, 5:13, 37:23, 84:25, 85:6, 85:10, 85:12, 129:16, 133:21, 133:25, 143:13, 144:5, 144:7, 144:11, 144:12, 144:13, 144:14, 144:15, 144:16, 145:13, 145:16, 145:18, 146:5, 146:8, 146:9, 146:11, 146:21, 147:13, 147:16, 147:24, 148:3, 148:7, 148:12, 148:19, 148:23, 148:24, 148:25, 150:16, 150:18, 150:20, 152:4, 152:6, 152:12, 152:17, 152:19, 152:24, 153:4, 153:7, 153:10, 153:16, 153:20, 153:23, 154:2, 154:13, 154:18, 154:22

**the**<sup>[1863]</sup> - 4:4, 4:8, 4:9, 4:19, 4:21, 4:23, 4:25, 5:1, 5:2, 5:3, 5:11, 5:12, 5:15, 5:21, 5:22, 5:23, 5:24, 6:1, 6:2,

6:5, 6:6, 6:9, 6:10, 6:12, 6:13, 6:15,  
6:18, 6:19, 6:22, 6:24, 6:25, 7:1, 7:5,  
7:8, 7:11, 7:12, 7:13, 7:15, 7:17, 7:20,  
7:21, 7:22, 7:24, 7:25, 8:1, 8:2, 8:3, 8:4,  
8:5, 8:7, 8:9, 8:10, 8:12, 8:13, 8:16,  
8:18, 8:21, 8:25, 9:3, 9:4, 9:5, 9:6, 9:7,  
9:8, 9:11, 9:12, 9:13, 9:14, 9:15, 9:16,  
9:18, 9:20, 9:21, 9:22, 9:23, 9:25, 10:1,  
10:2, 10:6, 10:7, 10:8, 10:9, 10:10,  
10:11, 10:13, 10:15, 10:16, 10:19,  
10:21, 10:22, 10:23, 11:3, 11:5, 11:7,  
11:8, 11:9, 11:12, 11:13, 11:14, 11:15,  
11:18, 11:19, 11:20, 11:22, 12:2, 12:3,  
12:4, 12:5, 12:6, 12:7, 12:8, 12:9,  
12:10, 12:11, 12:12, 12:13, 12:14,  
12:15, 12:16, 12:18, 12:19, 12:21,  
12:22, 12:23, 12:24, 12:25, 13:1, 13:2,  
13:3, 13:4, 13:5, 13:6, 13:10, 13:13,  
13:14, 13:19, 13:21, 13:22, 13:24,  
13:25, 14:1, 14:2, 14:4, 14:6, 14:9,  
14:10, 14:11, 14:13, 14:15, 14:16,  
14:18, 14:20, 14:21, 15:2, 15:4, 15:7,  
15:8, 15:10, 15:11, 15:12, 15:13, 15:18,  
15:20, 15:21, 15:22, 16:1, 16:4, 16:7,  
16:9, 16:10, 16:11, 16:15, 16:18, 16:19,  
16:23, 16:24, 16:25, 17:1, 17:2, 17:3,  
17:8, 17:11, 17:12, 17:15, 17:16, 17:17,  
17:18, 17:20, 17:21, 18:1, 18:4, 18:9,  
18:10, 18:13, 18:15, 18:19, 18:21,  
18:22, 18:24, 18:25, 19:1, 19:2, 19:6,  
19:7, 19:8, 19:9, 19:11, 19:17, 19:25,  
20:1, 20:8, 20:16, 20:17, 20:20, 20:21,  
20:24, 20:25, 21:1, 21:2, 21:3, 21:7,  
21:9, 21:10, 21:11, 21:14, 21:15, 21:17,  
21:19, 21:21, 21:22, 21:24, 21:25, 22:2,  
22:3, 22:6, 22:10, 22:11, 22:12, 22:13,  
22:15, 22:16, 22:17, 22:18, 22:21,  
22:25, 23:1, 23:2, 23:3, 23:4, 23:6,  
23:9, 23:10, 23:11, 23:12, 23:14, 23:15,  
23:16, 23:17, 23:18, 23:23, 24:1, 24:12,  
24:13, 24:15, 24:16, 24:21, 25:1, 25:13,  
25:18, 25:21, 26:3, 26:4, 26:12, 26:14,  
26:15, 26:17, 26:22, 26:25, 27:5, 27:11,  
27:18, 27:25, 28:2, 28:5, 28:6, 28:9,  
28:10, 28:11, 28:13, 28:14, 28:17,  
28:18, 28:19, 28:20, 28:22, 28:25, 29:1,  
29:3, 29:4, 29:6, 29:7, 29:8, 29:10,  
29:11, 29:13, 29:14, 29:17, 29:21,  
29:23, 29:24, 29:25, 30:3, 30:4, 30:5,  
30:8, 30:9, 30:17, 30:20, 31:3, 31:4,  
31:8, 31:10, 31:12, 31:13, 31:14, 31:15,  
31:16, 31:20, 31:23, 32:3, 32:4, 32:6,  
32:7, 32:11, 32:12, 32:13, 32:14, 32:15,  
32:18, 32:19, 32:20, 32:22, 32:24,  
32:25, 33:1, 33:3, 33:4, 33:6, 33:7,  
33:8, 33:9, 33:10, 33:11, 33:12, 33:13,  
33:15, 33:17, 33:19, 33:20, 33:21,  
33:22, 33:23, 33:24, 33:25, 34:1, 34:2,  
34:3, 34:8, 34:13, 34:14, 34:19, 34:20,  
34:23, 34:24, 34:25, 35:1, 35:3, 35:5,  
35:6, 35:7, 35:8, 35:9, 35:12, 35:13,

35:14, 35:16, 35:17, 35:19, 35:20,  
35:22, 35:24, 36:3, 36:4, 36:6, 36:8,  
36:9, 36:10, 36:13, 36:15, 36:16, 36:17,  
36:18, 36:22, 36:23, 37:2, 37:7, 37:11,  
37:12, 37:13, 37:15, 37:17, 37:20,  
37:24, 38:1, 38:3, 38:4, 38:7, 38:9,  
38:10, 38:12, 38:13, 38:14, 38:16,  
38:19, 38:20, 38:22, 38:24, 38:25, 39:1,  
39:4, 39:5, 39:7, 39:8, 39:9, 39:11,  
39:12, 39:14, 39:17, 39:20, 39:24, 40:1,  
40:5, 40:8, 40:14, 40:15, 40:17, 40:18,  
40:21, 40:23, 41:2, 41:3, 41:5, 41:6,  
41:10, 41:13, 41:14, 41:16, 41:22,  
41:24, 42:2, 42:4, 42:8, 42:9, 42:11,  
42:12, 42:17, 42:19, 42:22, 42:24,  
42:25, 43:7, 43:8, 43:9, 43:11, 43:13,  
43:16, 43:19, 43:24, 43:25, 44:11,  
44:14, 44:15, 44:22, 45:1, 45:4, 45:5,  
45:7, 45:11, 45:12, 45:13, 45:15, 45:16,  
45:17, 45:19, 45:23, 46:8, 46:11, 46:12,  
46:13, 46:15, 46:16, 46:20, 46:24,  
46:25, 47:2, 47:3, 47:5, 47:7, 47:24,  
48:2, 48:3, 48:7, 48:8, 48:9, 48:10,  
48:11, 48:12, 48:13, 48:14, 48:16,  
48:17, 48:18, 48:19, 48:23, 48:24,  
48:25, 49:1, 49:2, 49:4, 49:6, 49:7,  
49:14, 49:16, 49:17, 49:18, 49:22,  
49:24, 50:1, 50:2, 50:7, 50:10, 50:14,  
50:17, 50:19, 50:20, 50:21, 50:23, 51:1,  
51:4, 51:7, 51:8, 51:9, 51:12, 51:13,  
51:15, 51:17, 51:19, 51:21, 51:22,  
51:23, 51:24, 51:25, 52:2, 52:3, 52:4,  
52:6, 52:7, 52:12, 52:15, 52:17, 52:21,  
52:23, 53:1, 53:3, 53:5, 53:6, 53:8,  
53:12, 53:14, 53:16, 53:17, 53:18,  
53:24, 54:1, 54:3, 54:4, 54:7, 54:8,  
54:9, 54:10, 54:12, 54:16, 54:22, 54:23,  
54:24, 54:25, 55:1, 55:5, 55:6, 55:7,  
55:11, 55:14, 55:15, 55:20, 55:21,  
55:23, 55:24, 56:2, 56:11, 56:12, 56:13,  
56:14, 56:16, 56:17, 56:21, 56:24,  
56:25, 57:2, 57:3, 57:5, 57:6, 57:9,  
57:11, 57:12, 57:13, 57:14, 57:17,  
57:18, 57:19, 57:21, 57:22, 57:24, 58:1,  
58:2, 58:4, 58:8, 58:10, 58:14, 58:17,  
58:22, 58:23, 58:24, 58:25, 59:2, 59:3,  
59:5, 59:7, 59:10, 59:12, 59:14, 59:15,  
59:18, 59:19, 59:20, 59:21, 59:23,  
59:24, 59:25, 60:8, 60:9, 60:13, 60:16,  
60:18, 60:25, 61:2, 61:3, 61:4, 61:5,  
61:6, 61:9, 61:11, 61:12, 61:13, 61:14,  
61:15, 61:20, 61:23, 61:24, 62:2, 62:5,  
62:7, 62:12, 62:13, 62:16, 62:20, 62:21,  
62:23, 62:25, 63:1, 63:4, 63:5, 63:7,  
63:8, 63:9, 63:10, 63:11, 63:12, 63:13,  
63:14, 63:16, 63:18, 63:20, 63:25, 64:1,  
64:2, 64:4, 64:6, 64:9, 64:10, 64:11,  
64:13, 64:16, 64:20, 64:22, 64:25, 65:3,  
65:6, 65:13, 65:17, 65:19, 65:21, 65:22,  
65:23, 65:24, 66:1, 66:2, 66:3, 66:13,  
66:15, 66:16, 66:18, 66:20, 66:25, 67:1,

67:4, 67:5, 67:6, 67:9, 67:10, 67:12,  
67:13, 67:14, 67:16, 67:18, 67:19,  
67:20, 67:21, 68:6, 68:8, 68:9, 68:11,  
68:12, 68:13, 68:14, 68:16, 68:17,  
68:18, 68:20, 68:21, 68:23, 68:24, 69:1,  
69:4, 69:5, 69:8, 69:9, 69:10, 69:11,  
70:1, 70:3, 70:7, 70:10, 70:12, 70:14,  
70:15, 70:18, 70:19, 70:25, 71:1, 71:2,  
71:3, 71:5, 71:10, 71:13, 71:16, 71:17,  
71:19, 71:20, 71:21, 71:22, 71:23,  
71:25, 72:1, 72:3, 72:4, 72:5, 72:6,  
72:7, 72:9, 72:10, 72:11, 72:12, 72:13,  
72:17, 72:20, 72:22, 72:23, 72:24, 73:1,  
73:4, 73:8, 73:9, 73:12, 73:13, 73:16,  
73:18, 73:19, 73:22, 73:23, 73:25, 74:1,  
74:2, 74:3, 74:5, 74:6, 74:7, 74:9,  
74:10, 74:18, 74:19, 74:20, 74:21,  
74:25, 75:3, 75:15, 75:18, 75:20, 75:23,  
75:24, 75:25, 76:1, 76:2, 76:3, 76:6,  
76:7, 76:9, 76:10, 76:12, 76:14, 76:20,  
76:21, 76:23, 76:25, 77:7, 77:9, 77:11,  
77:12, 77:14, 77:23, 78:7, 78:10, 78:13,  
78:14, 78:22, 78:23, 78:24, 78:25, 79:3,  
79:5, 79:6, 79:14, 79:16, 79:20, 79:22,  
79:23, 79:24, 79:25, 80:3, 80:10, 80:11,  
80:12, 80:13, 80:14, 80:17, 80:18,  
80:19, 80:20, 80:21, 80:22, 81:2, 81:3,  
81:4, 81:6, 81:9, 81:11, 81:17, 81:18,  
81:21, 81:22, 81:24, 82:2, 82:3, 82:4,  
82:7, 82:8, 82:9, 82:10, 82:12, 82:13,  
82:18, 82:23, 83:3, 83:6, 83:10, 83:13,  
83:19, 83:20, 83:23, 83:25, 84:2, 84:5,  
84:8, 84:9, 84:12, 84:14, 84:17, 84:20,  
84:21, 85:2, 85:4, 85:5, 85:10, 85:11,  
85:24, 86:1, 86:4, 86:7, 86:11, 86:19,  
86:25, 87:2, 87:6, 87:7, 87:13, 87:14,  
87:15, 87:16, 87:18, 88:10, 88:22,  
88:23, 88:25, 89:1, 89:2, 89:9, 89:15,  
89:20, 89:25, 90:1, 90:2, 90:3, 90:5,  
90:8, 90:12, 90:13, 90:19, 90:22, 91:3,  
91:9, 91:10, 91:12, 91:14, 91:15, 91:16,  
92:1, 92:6, 92:8, 92:9, 92:14, 92:22,  
93:6, 93:9, 93:10, 93:11, 93:15, 93:18,  
93:19, 93:22, 93:23, 93:24, 93:25, 94:2,  
94:7, 94:9, 94:22, 94:23, 95:3, 95:14,  
95:15, 95:19, 95:21, 95:23, 95:25, 96:2,  
96:3, 96:8, 96:10, 96:12, 96:13, 96:14,  
96:18, 96:20, 97:1, 97:9, 97:10, 98:6,  
98:8, 98:9, 98:15, 98:17, 98:19, 98:20,  
98:23, 98:24, 99:3, 99:5, 99:6, 99:10,  
99:20, 99:21, 99:25, 100:6, 100:8,  
100:17, 100:19, 100:20, 100:22,  
100:24, 101:3, 101:6, 101:7, 101:11,  
101:16, 101:23, 102:4, 102:6, 102:12,  
102:15, 102:23, 103:2, 103:5, 103:15,  
103:18, 103:20, 103:21, 104:3, 104:5,  
104:9, 104:14, 104:15, 104:18, 105:2,  
105:8, 105:10, 106:2, 106:3, 106:7,  
106:12, 106:13, 106:15, 107:1, 107:2,  
107:8, 107:11, 107:12, 107:14, 107:17,  
107:20, 107:24, 108:1, 108:3, 108:7,



108:8, 108:11, 108:13, 108:25, 109:5, 109:6, 109:8, 109:10, 109:11, 109:14, 109:18, 109:19, 109:22, 109:23, 109:24, 110:3, 110:4, 110:16, 110:21, 111:2, 111:14, 111:19, 111:20, 111:21, 111:22, 112:9, 112:11, 112:17, 112:21, 112:22, 112:25, 113:3, 113:4, 113:5, 113:6, 113:7, 113:10, 113:15, 113:16, 113:17, 113:18, 113:21, 113:22, 113:23, 113:25, 114:4, 114:5, 114:8, 114:9, 114:10, 114:14, 114:15, 114:16, 114:18, 114:19, 114:21, 114:22, 115:1, 115:2, 115:4, 115:8, 115:14, 115:17, 115:20, 115:21, 115:22, 115:25, 116:2, 116:3, 116:9, 116:12, 116:13, 116:14, 116:15, 116:17, 116:18, 116:19, 116:23, 117:4, 117:5, 117:6, 117:10, 117:13, 117:15, 117:17, 117:18, 117:25, 118:1, 118:2, 118:3, 118:4, 118:7, 118:11, 118:12, 118:13, 118:15, 118:17, 118:18, 118:19, 119:2, 119:3, 119:6, 119:15, 119:16, 119:19, 119:21, 120:2, 120:7, 120:10, 120:20, 120:21, 121:2, 121:5, 121:6, 121:8, 121:13, 121:15, 121:21, 121:25, 122:1, 122:6, 122:9, 122:10, 122:11, 122:12, 122:13, 122:14, 122:16, 122:17, 122:20, 123:9, 123:12, 123:13, 123:15, 123:17, 123:20, 123:23, 123:25, 124:2, 124:5, 124:8, 124:13, 124:17, 124:18, 124:23, 124:24, 125:4, 125:5, 125:10, 125:12, 125:18, 125:23, 125:24, 126:1, 126:6, 126:7, 126:9, 126:13, 126:14, 126:15, 126:24, 127:2, 127:3, 127:5, 127:6, 127:7, 127:8, 127:10, 127:14, 127:16, 127:19, 127:21, 127:22, 127:23, 128:1, 128:2, 128:9, 128:12, 128:15, 128:18, 129:1, 129:6, 129:8, 129:9, 129:12, 129:13, 129:18, 130:1, 130:3, 130:4, 130:7, 130:10, 130:11, 130:13, 131:4, 131:7, 131:18, 131:20, 131:21, 131:22, 131:23, 132:7, 132:11, 132:13, 132:14, 132:18, 132:19, 132:20, 133:2, 133:3, 133:5, 133:8, 133:10, 133:12, 133:14, 133:15, 133:16, 134:5, 134:9, 134:11, 134:13, 134:15, 134:17, 134:18, 134:19, 134:24, 135:1, 135:5, 135:8, 135:15, 135:16, 135:18, 135:19, 135:21, 135:24, 135:25, 136:1, 136:3, 136:4, 136:5, 136:9, 136:10, 136:11, 136:12, 136:17, 136:18, 136:19, 136:23, 137:1, 137:2, 137:6, 137:7, 137:12, 137:13, 137:22, 138:1, 138:2, 138:3, 138:6, 138:12, 138:13, 138:14, 138:17, 138:25, 139:1, 139:5, 139:6, 139:7, 139:10, 139:12, 139:14, 139:15, 139:16, 139:24, 139:25, 140:3, 140:4, 140:7, 140:8, 140:9, 140:10, 140:12, 140:14, 140:15, 140:19, 140:23, 140:25, 141:3, 141:5, 141:6, 141:11, 141:15, 141:16, 141:17, 141:19, 142:3,

142:4, 142:14, 142:19, 142:20, 142:21, 142:23, 143:2, 143:3, 143:5, 143:9, 143:14, 143:15, 143:16, 143:19, 143:20, 143:22, 143:25, 144:5, 144:6, 144:16, 144:18, 144:19, 144:21, 144:22, 144:23, 145:1, 145:2, 145:4, 145:6, 145:7, 145:14, 145:17, 145:20, 145:21, 146:1, 146:14, 146:15, 146:16, 146:19, 146:22, 147:2, 147:3, 147:5, 147:10, 147:12, 147:13, 147:16, 147:17, 147:18, 147:20, 148:2, 148:4, 148:7, 148:11, 148:14, 148:20, 148:23, 149:2, 149:3, 149:5, 149:6, 149:7, 149:8, 149:10, 149:11, 149:17, 149:19, 149:25, 150:2, 150:9, 150:11, 150:12, 150:14, 150:17, 150:18, 150:19, 150:23, 150:24, 151:5, 151:6, 151:8, 151:10, 151:11, 151:13, 151:16, 151:17, 151:18, 151:21, 151:22, 151:24, 151:25, 152:2, 152:4, 152:5, 152:6, 152:7, 152:9, 152:11, 152:12, 152:21, 152:22, 152:23, 152:24, 152:25, 153:4, 153:14, 153:17, 153:19, 153:21, 153:23, 154:4, 154:5, 154:7, 154:9, 154:11, 154:12, 154:13, 154:16, 154:21, 154:23, 155:6, 155:7  
**The** <sup>[10]</sup> - 5:12, 47:3, 60:20, 85:5, 85:11, 143:7, 144:6, 150:19, 152:5, 155:2  
**theft** <sup>[2]</sup> - 24:13, 24:16  
**their** <sup>[46]</sup> - 9:17, 22:1, 29:12, 42:3, 46:21, 47:14, 52:22, 59:13, 61:15, 66:20, 73:2, 77:17, 78:7, 84:18, 84:19, 87:25, 88:3, 88:14, 88:16, 88:19, 90:25, 96:13, 96:15, 97:18, 97:20, 109:8, 111:4, 111:17, 113:13, 116:25, 119:1, 119:7, 119:10, 126:2, 127:8, 129:7, 132:20, 133:5, 133:12, 133:15, 137:10, 137:15, 145:7  
**them** <sup>[100]</sup> - 5:19, 5:20, 6:13, 12:10, 16:22, 37:14, 39:14, 46:21, 47:4, 52:17, 52:23, 53:8, 53:13, 53:24, 56:23, 58:15, 63:3, 63:21, 65:23, 68:4, 69:2, 72:25, 74:24, 76:21, 76:22, 78:13, 81:8, 81:14, 81:15, 88:18, 88:23, 89:21, 90:23, 91:24, 92:3, 92:4, 96:8, 96:11, 97:21, 97:22, 99:23, 99:25, 102:7, 103:6, 104:19, 105:6, 105:10, 110:19, 111:4, 112:1, 113:11, 113:17, 114:14, 115:10, 115:16, 118:6, 118:7, 120:9, 120:10, 120:14, 120:19, 120:23, 120:24, 132:12, 132:20, 132:21, 135:7, 136:10, 136:15, 138:5, 138:7, 138:8, 138:10, 138:15, 138:16, 139:20, 141:8, 146:6, 146:13, 146:17, 146:18, 147:21, 147:25, 149:1, 149:11, 149:16, 150:5, 150:6, 150:7, 150:8, 150:10, 150:16, 152:7, 153:18  
**theme** <sup>[1]</sup> - 113:7  
**themselves** <sup>[7]</sup> - 21:19, 29:6, 55:22,

56:21, 62:2, 107:7, 109:14  
**then** <sup>[89]</sup> - 4:5, 6:7, 6:8, 14:7, 14:16, 22:13, 22:17, 30:1, 30:4, 32:13, 35:19, 35:25, 36:3, 36:4, 36:7, 36:13, 36:19, 36:20, 36:25, 37:1, 37:3, 37:10, 40:14, 50:5, 51:21, 52:3, 53:16, 53:17, 54:19, 62:3, 62:9, 63:8, 64:20, 66:13, 67:19, 69:25, 70:6, 71:5, 72:3, 72:13, 76:24, 76:25, 83:22, 84:9, 92:14, 92:22, 93:4, 94:20, 97:6, 98:19, 99:10, 102:10, 102:11, 102:24, 104:23, 105:22, 105:25, 106:7, 107:9, 108:9, 108:20, 108:25, 109:1, 111:8, 111:22, 112:7, 114:13, 116:1, 118:8, 119:23, 127:18, 129:1, 131:23, 135:15, 142:6, 145:24, 147:24, 149:16, 149:20, 149:22, 150:9, 150:10, 151:4, 151:15, 151:17, 151:19, 153:12  
**theory** <sup>[1]</sup> - 82:3  
**there** <sup>[107]</sup> - 5:21, 17:7, 17:9, 35:19, 40:4, 40:5, 41:13, 44:10, 44:17, 48:5, 48:24, 49:16, 49:17, 49:18, 50:14, 50:20, 51:3, 52:4, 52:14, 53:8, 54:25, 55:1, 55:7, 55:8, 56:3, 58:17, 59:8, 59:9, 59:10, 59:14, 61:6, 62:1, 69:11, 70:7, 71:10, 72:10, 72:16, 76:7, 76:8, 76:16, 76:17, 76:24, 77:8, 77:19, 77:21, 78:12, 80:23, 80:24, 87:8, 93:17, 93:18, 93:20, 94:17, 95:11, 97:5, 100:24, 101:14, 103:7, 104:3, 104:17, 104:21, 106:14, 107:18, 113:3, 114:6, 117:2, 117:9, 117:13, 117:21, 118:5, 118:9, 118:10, 118:16, 118:25, 122:2, 122:15, 122:23, 123:24, 124:5, 125:13, 125:18, 126:12, 130:14, 133:10, 134:21, 135:11, 135:17, 136:5, 136:20, 138:17, 143:23, 151:22, 152:17  
**there's** <sup>[39]</sup> - 36:1, 36:11, 37:7, 40:22, 42:9, 44:3, 47:21, 54:21, 75:5, 75:8, 75:18, 76:1, 81:2, 81:8, 82:16, 83:12, 83:16, 89:8, 91:8, 91:18, 91:19, 91:21, 95:2, 95:11, 96:23, 98:14, 104:17, 107:12, 108:2, 108:20, 110:12, 110:25, 121:24, 125:17, 127:12, 132:11, 134:8, 134:14, 144:16  
**thereafter** <sup>[1]</sup> - 8:23  
**thereby** <sup>[2]</sup> - 22:10, 29:21  
**therefore** <sup>[3]</sup> - 8:14, 13:6, 128:16  
**These** <sup>[1]</sup> - 51:15  
**these** <sup>[75]</sup> - 5:17, 8:2, 12:12, 13:15, 13:25, 14:7, 14:11, 14:12, 14:17, 14:21, 14:22, 15:11, 20:21, 20:25, 33:6, 37:15, 37:16, 37:17, 46:7, 51:18, 51:19, 51:22, 51:23, 51:24, 52:5, 54:5, 58:14, 63:3, 63:17, 64:22, 68:21, 69:13, 80:19, 80:24, 80:25, 81:6, 91:9, 94:1, 94:4, 97:24, 101:22, 102:22, 104:9, 104:17, 105:17, 107:23, 109:14, 112:6, 114:1, 114:16, 116:23, 120:24, 121:22, 123:3, 124:10, 124:11, 124:24, 126:9, 127:20,

130:2, 132:7, 133:9, 133:11, 136:2, 136:8, 136:18, 137:6, 138:4, 138:9, 141:13, 144:24, 149:13, 151:9

**they** <sup>[340]</sup> - 7:1, 13:6, 16:23, 21:18, 29:5, 38:11, 39:3, 39:16, 39:17, 39:24, 40:15, 40:22, 41:14, 42:2, 44:7, 45:19, 46:25, 47:2, 47:3, 47:8, 47:14, 47:15, 48:8, 48:11, 48:12, 48:15, 48:16, 48:19, 49:6, 49:8, 49:12, 49:23, 49:24, 50:5, 50:9, 50:15, 50:16, 50:20, 50:23, 51:1, 51:17, 51:21, 51:24, 52:10, 52:11, 52:18, 52:19, 52:20, 52:21, 52:24, 52:25, 53:1, 53:9, 53:10, 53:11, 53:12, 53:13, 53:14, 53:16, 53:17, 53:20, 53:25, 54:1, 54:21, 55:1, 55:5, 55:8, 55:22, 57:25, 58:7, 58:11, 58:19, 58:20, 59:4, 59:7, 59:14, 59:16, 59:17, 60:21, 61:1, 61:20, 61:21, 62:2, 63:21, 65:3, 65:4, 66:16, 66:25, 67:15, 68:2, 68:24, 70:19, 72:24, 73:2, 73:16, 73:18, 73:19, 74:19, 74:20, 76:3, 76:4, 77:19, 77:20, 77:21, 78:5, 78:6, 78:8, 78:11, 78:12, 78:15, 79:6, 79:17, 79:19, 79:23, 81:25, 83:2, 84:4, 86:10, 87:2, 88:3, 88:7, 88:9, 88:10, 88:15, 88:16, 88:18, 88:19, 88:20, 88:22, 88:25, 89:5, 89:7, 89:13, 89:15, 89:17, 89:23, 89:24, 90:11, 91:1, 91:24, 92:3, 92:14, 93:4, 95:5, 95:18, 95:19, 96:14, 96:15, 96:20, 96:21, 97:3, 97:4, 97:19, 98:21, 98:25, 99:22, 100:3, 100:4, 101:6, 101:13, 101:14, 101:23, 101:24, 101:25, 103:21, 103:22, 104:16, 105:5, 105:6, 105:10, 105:14, 105:15, 106:24, 107:13, 109:1, 109:15, 110:6, 110:13, 110:14, 110:17, 110:22, 110:25, 111:1, 111:3, 111:8, 111:13, 111:16, 111:19, 111:21, 111:25, 112:1, 112:2, 112:3, 112:15, 112:20, 112:23, 113:11, 113:12, 113:15, 113:23, 114:12, 114:17, 114:18, 114:25, 116:4, 117:18, 118:6, 118:7, 119:7, 120:3, 120:4, 120:11, 120:15, 124:23, 125:4, 125:8, 125:9, 125:12, 125:21, 125:23, 125:25, 126:2, 126:3, 127:2, 129:1, 129:6, 129:7, 129:10, 130:4, 131:21, 131:22, 131:23, 131:24, 132:9, 132:10, 132:13, 132:17, 133:15, 134:21, 134:24, 135:2, 135:3, 135:5, 135:8, 135:9, 135:13, 135:15, 136:10, 136:12, 136:13, 136:19, 136:20, 136:21, 136:22, 137:7, 137:15, 137:19, 138:5, 138:14, 138:20, 139:17, 140:2, 140:8, 140:17, 140:23, 141:24, 146:6, 146:13, 146:19, 147:5, 147:7, 147:11, 147:13, 147:19, 147:20, 148:23, 148:24, 149:11, 149:13, 149:21, 150:5, 150:6, 150:8, 150:10, 151:19, 152:8, 152:9, 154:11

**they'll** <sup>[1]</sup> - 48:11

**they're** <sup>[49]</sup> - 37:17, 48:5, 49:23, 51:15, 53:10, 57:7, 58:1, 58:11, 58:19, 59:17,

61:1, 74:25, 76:5, 80:10, 81:6, 83:16, 84:8, 84:19, 111:14, 113:14, 116:24, 116:25, 122:8, 125:23, 127:7, 127:8, 127:9, 132:10, 134:10, 134:11, 135:19, 137:4, 137:9, 137:14, 137:16, 137:19, 138:2, 138:3, 138:13, 138:18, 138:19, 139:15, 140:17, 145:25, 147:7, 147:22, 149:19

**they've** <sup>[11]</sup> - 84:19, 88:18, 89:7, 113:13, 113:14, 113:22, 113:23, 130:7, 132:9, 133:16, 146:1

**they..** <sup>[1]</sup> - 145:16

**thing** <sup>[50]</sup> - 20:5, 20:9, 20:13, 20:15, 35:1, 37:15, 44:9, 47:3, 56:2, 58:2, 58:8, 62:25, 63:1, 63:5, 70:15, 73:22, 73:25, 77:6, 77:23, 81:21, 83:25, 85:17, 89:2, 96:25, 104:13, 104:25, 109:3, 109:9, 113:17, 113:18, 114:7, 115:5, 117:10, 122:8, 122:9, 124:14, 125:18, 125:20, 127:17, 129:12, 130:7, 132:21, 134:8, 135:19, 136:12, 137:20, 139:24, 151:18, 152:13, 154:3

**things** <sup>[38]</sup> - 9:17, 12:8, 38:5, 50:25, 58:20, 63:21, 69:10, 69:11, 69:12, 72:21, 77:3, 81:9, 90:10, 92:7, 99:17, 103:16, 105:3, 106:12, 110:10, 111:1, 112:2, 113:4, 113:22, 113:23, 116:17, 121:6, 124:23, 126:12, 126:23, 131:17, 133:16, 134:7, 135:20, 137:19, 138:8, 142:11, 154:4

**think** <sup>[48]</sup> - 12:16, 13:4, 13:10, 14:2, 16:23, 44:25, 51:9, 59:10, 61:12, 66:15, 69:9, 69:13, 69:20, 74:1, 87:23, 87:24, 88:6, 88:11, 88:13, 97:9, 100:7, 101:22, 102:10, 104:17, 106:17, 107:13, 110:10, 110:22, 121:3, 121:4, 125:4, 125:9, 125:12, 129:19, 129:20, 130:14, 130:21, 131:14, 132:24, 134:12, 135:12, 142:16, 143:23, 148:6, 148:18, 149:17, 152:7, 152:8

**thinking** <sup>[2]</sup> - 111:11, 130:5

**thinks** <sup>[3]</sup> - 75:20, 106:11, 111:21

**third** <sup>[8]</sup> - 18:21, 19:8, 23:11, 30:23, 70:15, 121:11, 122:7, 150:11

**this** <sup>[220]</sup> - 4:21, 4:23, 6:8, 11:17, 11:23, 13:9, 14:6, 14:15, 15:21, 15:24, 16:21, 17:5, 18:10, 23:12, 27:13, 30:15, 30:16, 32:10, 33:10, 33:23, 38:3, 38:5, 38:21, 38:22, 39:18, 40:1, 41:9, 41:23, 42:22, 43:5, 43:17, 46:8, 46:12, 48:14, 48:17, 48:22, 49:18, 49:25, 50:9, 50:13, 50:15, 51:6, 51:11, 52:7, 53:9, 54:18, 55:19, 56:13, 57:16, 57:20, 58:13, 59:19, 59:24, 60:6, 60:7, 60:10, 60:17, 61:15, 61:16, 63:2, 65:2, 65:6, 65:18, 65:21, 65:23, 65:25, 70:25, 71:1, 71:7, 77:1, 77:15, 77:19, 77:22, 78:1, 78:15, 78:22, 79:4, 79:5, 79:9, 79:11, 79:22, 80:15, 81:21, 82:12, 83:10, 85:23, 87:18, 88:19, 88:20, 88:24, 89:3, 89:18,

90:4, 90:10, 91:4, 91:22, 93:7, 93:8, 93:10, 93:11, 93:17, 94:9, 94:14, 94:23, 95:6, 98:12, 98:13, 98:15, 98:17, 98:20, 99:13, 99:21, 101:21, 102:24, 104:8, 104:21, 105:4, 106:4, 108:4, 108:5, 108:7, 108:15, 108:17, 108:20, 109:5, 109:9, 109:11, 109:15, 109:16, 109:24, 110:2, 112:14, 112:18, 112:20, 114:7, 114:10, 115:6, 115:23, 116:3, 116:5, 116:6, 116:7, 116:18, 117:2, 117:19, 119:21, 121:25, 122:1, 122:3, 124:12, 124:13, 124:15, 124:20, 127:6, 127:13, 128:3, 128:4, 128:6, 128:11, 129:6, 129:11, 130:1, 130:3, 130:8, 130:12, 130:16, 131:3, 131:25, 132:6, 132:15, 132:21, 132:22, 132:25, 133:5, 133:7, 133:16, 134:16, 134:20, 134:21, 135:7, 135:11, 135:12, 136:5, 136:13, 136:24, 137:11, 138:10, 138:17, 139:21, 140:1, 140:12, 140:16, 140:24, 142:5, 142:8, 143:5, 143:9, 145:4, 146:11, 146:12, 146:17, 148:3, 149:10, 149:18, 149:20, 149:23, 150:7, 150:8, 150:9, 152:18, 152:24, 153:12

**thorough** <sup>[2]</sup> - 91:2

**those** <sup>[60]</sup> - 9:6, 9:16, 9:24, 13:13, 17:24, 28:2, 34:3, 35:19, 37:13, 38:5, 38:11, 53:4, 54:11, 56:10, 57:4, 61:7, 62:6, 64:15, 67:16, 68:2, 68:11, 72:21, 73:22, 73:25, 76:10, 81:12, 83:5, 91:20, 95:15, 95:25, 96:16, 97:17, 99:22, 99:24, 111:3, 114:15, 114:20, 116:16, 117:19, 118:5, 118:21, 120:6, 126:3, 127:5, 127:6, 127:7, 127:8, 129:3, 130:9, 131:2, 131:12, 131:17, 133:18, 134:11, 136:17, 136:18, 140:10, 140:11, 145:22, 154:19

**though** <sup>[16]</sup> - 21:14, 21:15, 22:14, 22:18, 28:25, 29:1, 30:2, 30:5, 32:15, 81:25, 88:21, 104:3, 111:3, 123:14, 123:24, 140:1

**thought** <sup>[5]</sup> - 87:8, 95:3, 96:20, 106:16, 148:7

**thoughts** <sup>[2]</sup> - 148:1, 148:9

**thousand** <sup>[8]</sup> - 19:14, 19:20, 36:24, 36:25, 40:7, 40:8, 40:17, 46:4

**thousands** <sup>[2]</sup> - 83:16

**Three** <sup>[2]</sup> - 118:17, 118:18

**three** <sup>[23]</sup> - 24:7, 25:13, 38:11, 55:3, 58:5, 61:1, 61:7, 61:12, 69:13, 74:10, 76:16, 77:8, 91:23, 94:21, 99:24, 101:8, 107:14, 126:17, 127:10, 133:18, 135:4, 137:3

**three-day** <sup>[2]</sup> - 74:10, 101:8

**threw** <sup>[1]</sup> - 59:4

**thrilling** <sup>[1]</sup> - 37:14

**through** <sup>[19]</sup> - 5:20, 20:10, 32:6, 37:17, 61:14, 62:8, 71:21, 80:17, 81:14, 95:12, 96:3, 100:17, 105:23, 105:24, 107:10, 117:19, 135:5, 138:7, 153:1

**throughout** [5] - 7:16, 7:25, 65:25, 76:5, 76:6  
**ticket** [1] - 118:13  
**tickets** [9] - 73:13, 73:14, 73:19, 73:22, 73:25, 79:7, 95:12, 95:15  
**Tico** [1] - 100:18  
**tie** [3] - 99:2, 135:10, 135:11  
**Time** [2] - 143:18, 143:20  
**time** [86] - 5:10, 5:15, 7:16, 12:21, 20:5, 20:8, 20:21, 20:25, 28:6, 28:10, 31:4, 31:13, 37:19, 40:4, 41:23, 42:8, 42:21, 42:22, 43:5, 44:11, 44:20, 45:12, 47:8, 50:9, 50:13, 50:15, 52:23, 52:25, 53:3, 57:12, 60:10, 61:2, 61:9, 65:17, 65:21, 68:16, 71:7, 72:9, 73:19, 82:12, 82:13, 83:24, 84:16, 84:19, 84:20, 89:17, 90:24, 94:3, 94:18, 100:1, 102:21, 102:24, 103:20, 106:3, 106:4, 111:16, 114:10, 116:5, 117:12, 117:16, 117:23, 118:18, 118:19, 119:22, 121:3, 123:17, 124:6, 125:23, 129:15, 129:23, 130:5, 131:7, 132:20, 134:18, 134:24, 139:16, 142:23, 143:16  
**time-consuming** [1] - 129:23  
**timeline** [1] - 77:1  
**timely** [1] - 87:12  
**times** [13] - 34:22, 42:21, 55:4, 61:1, 94:21, 101:23, 101:24, 106:14, 113:15, 122:19, 123:2, 132:16, 151:22  
**Tio** [2] - 105:17, 105:19  
**Title** [3] - 18:6, 30:10, 30:14  
**title** [1] - 22:23  
**to** [1058] - 4:9, 4:16, 4:17, 4:20, 5:1, 5:2, 5:3, 5:5, 5:9, 5:16, 5:18, 5:19, 5:20, 5:23, 5:24, 6:1, 6:2, 6:5, 6:8, 6:12, 6:13, 6:14, 6:15, 6:16, 6:18, 6:19, 6:21, 7:1, 7:3, 7:12, 7:16, 7:21, 7:23, 8:1, 8:3, 8:16, 8:21, 8:22, 8:23, 8:25, 9:2, 9:5, 9:10, 9:16, 9:17, 9:18, 9:23, 9:25, 10:1, 10:8, 10:10, 10:18, 10:19, 10:21, 11:4, 11:6, 11:7, 11:11, 11:13, 11:20, 11:24, 12:3, 12:7, 12:9, 12:13, 12:16, 12:18, 12:21, 12:25, 13:2, 13:4, 13:9, 13:13, 13:18, 14:4, 14:8, 14:10, 14:13, 14:18, 14:20, 14:25, 15:1, 15:16, 15:23, 16:12, 16:14, 16:19, 16:24, 17:17, 17:18, 17:19, 17:21, 17:25, 18:1, 18:2, 18:5, 18:7, 18:8, 18:11, 18:13, 18:14, 18:16, 18:22, 18:25, 19:4, 19:9, 19:22, 19:23, 19:24, 20:9, 20:21, 20:25, 21:1, 21:2, 21:3, 21:5, 21:13, 21:24, 22:9, 22:22, 22:24, 22:25, 23:2, 23:6, 23:12, 23:17, 23:21, 24:4, 24:12, 24:13, 24:15, 24:16, 24:19, 25:4, 25:6, 25:18, 25:21, 25:24, 26:1, 26:6, 26:14, 27:22, 27:25, 28:4, 28:6, 28:10, 28:11, 28:12, 28:15, 28:24, 29:10, 29:20, 30:11, 30:15, 30:16, 30:20, 31:4, 31:7, 31:13, 31:15, 31:16, 32:1, 32:3, 32:10, 32:13, 32:20, 32:24, 33:8, 33:10, 33:19, 33:21, 33:25, 34:1,

34:4, 34:6, 34:9, 34:10, 34:11, 34:12, 34:16, 34:18, 34:23, 34:25, 35:11, 35:13, 35:14, 35:15, 35:16, 35:20, 35:25, 36:7, 37:3, 37:14, 37:15, 37:18, 37:20, 38:6, 38:7, 38:10, 38:19, 38:21, 38:23, 38:25, 39:7, 39:13, 40:4, 40:6, 40:12, 40:13, 40:14, 40:16, 40:19, 40:21, 40:25, 41:4, 41:5, 41:8, 41:9, 41:10, 41:12, 41:14, 41:22, 42:2, 42:10, 42:24, 42:25, 43:4, 43:7, 43:8, 43:12, 43:16, 43:17, 43:19, 43:20, 43:21, 44:11, 45:3, 45:8, 45:11, 45:14, 45:24, 46:7, 46:9, 46:13, 46:19, 46:21, 47:3, 47:14, 47:21, 47:23, 48:9, 48:14, 48:15, 48:16, 48:20, 49:5, 49:8, 49:9, 49:12, 49:14, 49:23, 49:24, 49:25, 50:1, 50:7, 50:11, 50:16, 50:19, 50:20, 50:24, 50:25, 51:2, 51:17, 51:21, 51:22, 51:25, 52:7, 52:8, 52:9, 52:20, 52:22, 52:23, 52:24, 52:25, 53:7, 53:10, 53:12, 53:15, 53:17, 53:22, 54:3, 54:5, 54:9, 54:15, 54:17, 54:21, 55:13, 56:4, 56:13, 56:14, 56:15, 56:16, 56:18, 56:20, 56:22, 56:25, 57:4, 57:14, 57:22, 57:24, 58:4, 58:14, 58:15, 58:19, 59:7, 59:23, 59:24, 59:25, 60:4, 60:9, 60:12, 60:13, 60:14, 60:16, 60:19, 60:21, 60:25, 61:4, 61:7, 61:8, 61:9, 61:17, 61:23, 62:3, 62:8, 62:11, 62:12, 62:19, 63:2, 63:4, 63:5, 63:10, 63:14, 63:15, 63:16, 63:22, 63:23, 64:1, 64:3, 64:23, 65:2, 65:7, 65:8, 65:13, 66:9, 66:21, 66:22, 67:1, 67:2, 67:3, 67:6, 67:13, 67:18, 68:4, 68:8, 68:12, 68:13, 68:14, 68:17, 69:2, 69:4, 69:7, 69:9, 69:12, 69:14, 69:19, 69:20, 69:24, 69:25, 70:1, 70:2, 70:5, 70:6, 70:8, 70:9, 70:11, 70:13, 70:14, 70:21, 71:3, 71:6, 71:12, 71:14, 71:18, 71:23, 71:24, 72:1, 72:4, 72:12, 72:13, 72:19, 72:23, 72:24, 73:5, 73:6, 73:8, 73:12, 73:13, 73:18, 73:21, 74:9, 74:11, 74:15, 74:25, 75:4, 75:7, 75:11, 75:13, 75:15, 75:16, 75:17, 75:19, 75:23, 76:2, 76:9, 76:13, 76:21, 76:22, 76:25, 77:1, 77:4, 77:5, 77:6, 77:11, 77:14, 77:16, 77:19, 77:20, 77:21, 77:23, 77:24, 77:25, 78:6, 78:7, 78:11, 78:12, 78:13, 78:23, 79:7, 79:11, 79:18, 79:19, 79:22, 80:2, 80:4, 80:7, 80:8, 80:9, 80:11, 80:15, 80:16, 80:20, 80:24, 80:25, 81:6, 81:7, 81:9, 81:10, 81:11, 81:14, 81:16, 81:17, 81:21, 82:1, 82:4, 82:5, 82:6, 82:8, 82:9, 82:13, 82:22, 83:4, 83:9, 83:11, 83:13, 83:20, 84:1, 84:4, 84:13, 84:20, 84:22, 86:2, 86:5, 86:6, 86:9, 86:10, 86:14, 86:19, 86:20, 86:21, 86:22, 86:25, 87:1, 87:2, 87:3, 87:9, 87:11, 87:13, 87:14, 87:22, 88:5, 88:15, 88:19, 88:25, 89:1, 89:12, 89:14, 89:15, 89:18, 89:21, 90:2, 90:7, 90:11, 90:19, 91:9, 91:10, 91:13, 91:23, 92:8, 92:10,

92:11, 92:12, 92:13, 92:15, 92:18, 92:19, 92:20, 93:5, 93:8, 93:10, 93:11, 94:1, 94:2, 94:7, 94:10, 94:12, 94:13, 94:16, 94:19, 94:23, 95:5, 95:10, 95:15, 95:18, 95:21, 95:22, 96:6, 96:7, 96:10, 96:20, 97:9, 97:14, 97:16, 97:18, 97:19, 97:20, 97:21, 97:23, 98:1, 98:3, 98:6, 98:15, 99:2, 99:4, 99:10, 99:12, 99:19, 99:20, 99:21, 99:22, 100:5, 100:9, 100:15, 100:16, 100:18, 101:18, 101:19, 102:14, 102:19, 103:2, 103:3, 103:5, 103:12, 103:13, 103:16, 103:20, 103:23, 103:25, 104:7, 104:12, 104:14, 105:8, 105:10, 105:13, 105:22, 105:25, 106:4, 106:5, 106:8, 106:20, 107:2, 107:3, 107:13, 107:23, 108:3, 108:16, 109:12, 109:16, 109:19, 110:19, 111:2, 111:3, 111:9, 111:10, 111:11, 111:13, 111:14, 111:16, 111:25, 112:2, 112:3, 112:5, 112:8, 112:16, 112:17, 112:25, 113:3, 113:4, 113:6, 113:9, 113:12, 113:13, 113:14, 113:15, 113:20, 113:21, 113:24, 114:3, 114:4, 114:10, 114:11, 114:13, 114:17, 114:18, 114:20, 114:24, 115:4, 115:8, 115:10, 115:13, 115:16, 115:22, 115:25, 116:1, 116:2, 116:4, 116:8, 116:11, 116:13, 116:20, 116:23, 117:4, 117:14, 117:15, 117:22, 117:25, 118:15, 118:18, 118:19, 118:20, 118:24, 118:25, 119:1, 119:6, 119:14, 119:15, 119:18, 119:19, 120:1, 120:3, 120:4, 120:5, 120:7, 120:9, 120:10, 120:14, 120:17, 120:18, 120:19, 120:23, 121:1, 121:5, 121:9, 121:11, 122:3, 122:4, 122:6, 122:7, 122:9, 122:20, 123:3, 124:2, 124:3, 124:6, 124:7, 124:11, 124:18, 125:5, 125:10, 125:13, 125:14, 126:2, 126:6, 126:9, 126:13, 126:18, 126:19, 126:21, 126:22, 127:4, 127:9, 127:13, 127:18, 127:19, 127:20, 127:25, 128:3, 128:4, 128:7, 128:9, 128:10, 128:11, 128:13, 128:17, 129:1, 129:2, 129:3, 129:5, 129:7, 129:9, 129:13, 129:19, 129:23, 130:1, 130:6, 130:9, 130:10, 130:12, 130:19, 130:20, 130:24, 131:2, 131:8, 131:9, 131:11, 131:12, 131:13, 131:14, 131:24, 132:1, 132:4, 132:6, 132:11, 132:12, 132:16, 132:17, 132:20, 132:21, 132:24, 133:1, 133:7, 133:11, 133:12, 133:17, 133:18, 133:22, 134:4, 134:7, 134:12, 134:13, 134:16, 134:25, 135:1, 135:8, 135:10, 135:11, 135:18, 135:22, 135:24, 135:25, 136:13, 136:14, 136:19, 136:24, 137:3, 137:8, 137:15, 137:18, 138:19, 138:22, 139:2, 139:3, 139:13, 139:16, 139:18, 139:21, 139:22, 140:1, 140:10, 140:15, 140:17, 141:8, 141:10, 141:13, 141:16, 141:18, 141:20, 141:22, 141:25, 142:2, 142:5, 142:8, 142:9, 142:11, 142:14, 142:17,

142:20, 143:1, 143:2, 143:3, 143:5,  
143:16, 143:19, 143:22, 143:23, 144:2,  
144:3, 144:14, 144:18, 144:22, 144:23,  
145:1, 145:2, 145:20, 145:25, 146:3,  
146:6, 146:9, 146:14, 146:18, 146:19,  
146:22, 146:24, 147:7, 147:19, 147:21,  
148:2, 148:12, 148:14, 148:15, 148:16,  
149:2, 149:4, 149:10, 149:12, 149:13,  
149:18, 149:19, 149:20, 149:21,  
149:23, 149:25, 150:2, 150:5, 150:7,  
150:9, 150:10, 150:13, 150:16, 150:22,  
150:24, 151:1, 151:3, 151:5, 151:9,  
151:15, 151:16, 151:17, 151:18,  
151:19, 151:21, 151:25, 152:1, 152:6,  
152:9, 154:7, 154:14, 154:16, 154:19,  
154:23, 155:6  
**today** [5] - 38:25, 114:11, 123:18,  
139:3, 143:4  
**together** [20] - 21:5, 22:5, 28:15,  
29:16, 38:23, 40:15, 40:17, 47:2, 47:8,  
60:21, 61:1, 89:13, 92:4, 114:16,  
118:22, 119:1, 127:2, 132:13, 132:14,  
133:13  
**told** [69] - 9:10, 10:4, 14:23, 23:25,  
24:4, 24:8, 25:6, 25:12, 38:3, 39:14,  
42:14, 44:22, 44:24, 46:8, 48:9, 50:13,  
52:20, 56:25, 57:9, 60:24, 62:4, 63:3,  
64:3, 64:5, 64:13, 65:2, 65:13, 66:21,  
68:15, 69:10, 70:18, 76:21, 76:22,  
78:25, 79:17, 81:24, 83:18, 86:22,  
86:23, 87:2, 87:22, 88:3, 92:1, 92:7,  
92:8, 92:10, 92:12, 92:13, 92:16, 92:20,  
92:21, 92:23, 92:25, 94:12, 95:13,  
104:18, 107:22, 111:18, 114:2, 115:7,  
117:5, 146:6, 146:13, 146:14, 146:18,  
146:22, 147:3, 149:11  
**toll** [1] - 93:5  
**tomorrow** [1] - 153:10  
**ton** [1] - 111:1  
**tone** [2] - 66:8, 66:10  
**Tonio** [27] - 60:12, 60:15, 61:1, 61:16,  
61:20, 62:4, 62:6, 62:21, 63:20, 63:23,  
64:22, 64:25, 65:1, 65:2, 66:2, 66:23,  
66:24, 67:3, 67:6, 67:9, 102:17, 107:9,  
107:10, 107:25, 108:3, 108:6  
**tons** [1] - 136:9  
**Tony** [4] - 43:17, 49:3, 49:20, 106:8  
**Tony's** [1] - 68:9  
**too** [11] - 52:14, 55:18, 60:2, 78:10,  
97:11, 98:5, 124:1, 124:19, 137:17,  
139:4, 148:10  
**took** [14] - 6:25, 10:10, 10:20, 63:25,  
75:25, 79:11, 84:17, 85:13, 86:24, 92:3,  
117:14, 139:20, 139:21  
**tools** [1] - 93:6  
**top** [3] - 47:24, 61:12, 100:17  
**Torres** [1] - 101:16  
**touch** [1] - 134:12  
**toward** [1] - 6:23  
**towards** [1] - 50:10

**tower** [2] - 126:7, 131:20  
**towers** [2] - 126:1, 126:3  
**town** [4] - 39:14, 39:25, 73:24, 79:23  
**track** [1] - 126:3  
**tractor** [2] - 43:5, 43:12  
**tractor-trailer** [2] - 43:5, 43:12  
**trade** [2] - 31:17, 42:2  
**trading** [1] - 4:22  
**traffic** [4] - 41:22, 84:5, 118:12, 118:13  
**trafficker** [1] - 142:22  
**trafficking** [15] - 38:4, 39:8, 39:9, 40:2,  
44:2, 45:7, 46:10, 59:22, 60:22, 63:18,  
67:7, 73:1, 73:7, 142:25, 143:1  
**trailer** [2] - 43:5, 43:12  
**transaction** [2] - 19:25, 149:8  
**transcript** [8] - 1:25, 61:5, 108:3,  
147:2, 147:19, 147:20, 149:7, 155:6  
**TRANSCRIPT** [1] - 1:9  
**transcripts** [4] - 146:13, 146:23,  
149:12, 151:9  
**transfer** [1] - 19:23  
**transferred** [1] - 82:25  
**translate** [1] - 151:19  
**transnational** [1] - 112:11  
**transport** [2] - 43:7, 62:2  
**transportation** [2] - 31:1, 31:17  
**transported** [9] - 13:18, 26:14, 27:22,  
27:25, 30:23, 31:1, 82:24, 83:2, 104:24  
**transporting** [3] - 31:24, 105:16, 140:9  
**trap** [1] - 44:12  
**traps** [1] - 44:22  
**trauma** [1] - 117:8  
**travel** [2] - 31:17, 31:19  
**treat** [1] - 116:9  
**treatment** [2] - 129:24, 130:3  
**Tres** [1] - 90:9  
**trial** [33] - 4:23, 5:15, 5:21, 5:24, 6:1,  
7:14, 9:12, 9:23, 10:6, 10:9, 10:11,  
12:23, 17:1, 17:4, 38:3, 38:13, 38:15,  
48:18, 68:14, 71:17, 72:15, 90:4, 91:4,  
93:10, 93:11, 112:14, 114:7, 115:8,  
145:6, 151:8, 151:13, 151:17, 151:25  
**TRIAL** [1] - 1:9  
**triangulation** [2] - 93:5, 125:25  
**tried** [6] - 50:19, 56:4, 59:7, 72:23,  
109:12, 131:24  
**tries** [1] - 139:13  
**trip** [2] - 74:13, 92:5  
**trips** [2] - 142:17  
**troopers** [1] - 121:1  
**Trospen** [13] - 25:15, 26:3, 26:14,  
48:17, 49:24, 50:20, 50:21, 53:1, 54:12,  
55:20, 59:3, 126:5, 139:21  
**trouble** [1] - 63:13  
**truck** [6] - 26:6, 26:12, 38:19, 59:5,  
139:21, 140:8  
**true** [35] - 11:18, 13:1, 13:3, 57:8,  
58:13, 60:19, 68:16, 68:17, 69:12,  
70:16, 71:8, 71:9, 71:14, 72:12, 72:21,

74:11, 74:17, 77:4, 77:15, 78:9, 79:4,  
79:9, 86:19, 88:13, 92:21, 95:13,  
102:13, 105:23, 138:4, 139:22, 140:15,  
143:7, 148:1, 155:6  
**trust** [7] - 57:23, 59:15, 71:15, 71:16,  
72:19, 74:2, 130:13  
**trusting** [1] - 42:8  
**truth** [15] - 12:4, 79:14, 86:25, 87:11,  
106:15, 116:13, 124:24, 132:18,  
132:19, 132:20, 140:1, 141:3, 141:5,  
141:6, 141:7  
**truthful** [6] - 60:19, 71:25, 77:16,  
79:17, 123:19, 137:19  
**truths** [1] - 67:13  
**try** [9] - 52:20, 52:25, 53:10, 53:16,  
53:20, 54:21, 65:7, 80:25, 83:9  
**trying** [37] - 42:2, 45:3, 49:23, 52:19,  
52:22, 53:22, 54:9, 55:13, 56:15, 63:15,  
63:22, 63:23, 66:21, 66:22, 67:1, 69:25,  
70:2, 70:6, 70:9, 73:5, 75:19, 77:1,  
77:4, 79:18, 86:21, 86:22, 103:20,  
103:25, 104:14, 107:13, 117:4, 120:17,  
138:22, 140:1  
**Tu** [2] - 41:11, 41:12  
**turned** [2] - 112:19, 140:15  
**turns** [2] - 44:17, 49:16  
**TV** [1] - 44:25  
**twice** [4] - 50:17, 55:3, 121:15, 122:25  
**twisting** [1] - 86:19  
**two** [66] - 4:6, 4:18, 4:20, 5:22, 19:3,  
20:2, 20:14, 21:4, 22:24, 23:5, 24:3,  
25:6, 28:15, 38:5, 40:17, 42:21, 44:20,  
46:20, 49:12, 49:14, 49:16, 49:22, 51:8,  
51:18, 54:11, 54:20, 57:21, 61:1, 68:21,  
70:7, 72:6, 73:14, 74:3, 75:5, 77:3,  
81:9, 91:6, 92:7, 94:1, 94:4, 96:8,  
105:17, 111:19, 114:9, 122:16, 123:2,  
133:9, 134:1, 134:7, 134:11, 135:4,  
141:12, 141:13, 141:24, 143:19, 148:5,  
148:23, 148:25, 149:13, 149:24, 151:6,  
151:16, 152:6, 154:6, 154:22  
**two-minute** [1] - 134:1  
**two-time** [1] - 44:20  
**type** [5] - 127:14, 128:6, 136:16,  
147:18  
**types** [1] - 83:11  
**typo** [3] - 16:2, 16:3, 23:8

## U

**U.S.** [8] - 1:15, 54:16, 63:10, 100:19,  
101:24, 109:11, 136:9, 136:10  
**UCLA** [1] - 143:6  
**ultrasound** [7] - 75:24, 76:14, 76:23,  
76:25, 77:9, 85:25  
**unanimous** [3] - 34:7, 35:5, 35:18  
**unanimously** [5] - 35:24, 36:9, 36:16,  
37:2, 37:7  
**under** [15] - 32:7, 32:11, 38:24, 57:11,  
79:3, 79:8, 79:24, 82:3, 94:2, 102:10,

102:11, 119:24, 131:12, 144:18, 144:24  
**undercover** [2] - 111:7, 125:12  
**underground** [4] - 42:17, 64:15, 64:17, 104:17  
**understand** [6] - 12:9, 63:5, 66:9, 77:1, 80:3, 150:9  
**understanding** [2] - 147:5, 155:7  
**understands** [2] - 21:11, 28:22  
**undisputed** [1] - 73:13  
**uniform** [1] - 106:13  
**UNITED** [3] - 1:1, 1:4, 1:11  
**United** [23] - 2:5, 18:6, 18:9, 22:23, 23:1, 24:13, 24:16, 30:10, 30:14, 31:20, 40:6, 51:1, 61:25, 66:18, 68:23, 91:9, 93:25, 109:5, 109:7, 109:8, 115:1, 120:22, 155:5  
**unknown** [11] - 23:25, 25:9, 27:9, 27:10, 27:14, 27:16, 27:17, 27:19, 27:20  
**unlawful** [13] - 19:7, 19:10, 21:5, 21:9, 21:11, 22:1, 23:9, 23:13, 28:16, 28:20, 28:22, 29:12, 30:11  
**unlawfully** [3] - 31:7, 82:19, 128:21  
**unless** [10] - 7:19, 15:19, 16:16, 32:25, 33:5, 57:2, 63:18, 103:2, 110:4, 150:4  
**unreliable** [1] - 127:20  
**unsupported** [2] - 15:19, 16:16  
**until** [10] - 7:16, 35:18, 91:14, 95:14, 102:18, 109:16, 109:20, 115:24, 134:22, 145:16  
**untruthful** [1] - 71:18  
**up** [94] - 4:20, 5:1, 17:6, 34:18, 40:10, 41:11, 42:10, 42:12, 42:15, 43:12, 43:23, 44:15, 47:2, 47:4, 47:18, 48:1, 48:2, 48:3, 48:4, 48:9, 49:11, 51:7, 52:24, 53:1, 53:10, 53:23, 54:9, 54:22, 55:6, 55:13, 55:20, 56:4, 58:18, 58:23, 59:13, 60:9, 60:18, 63:20, 64:10, 64:11, 65:5, 70:6, 72:5, 77:18, 78:6, 80:25, 86:6, 87:5, 87:17, 87:23, 88:10, 88:15, 89:17, 92:23, 93:14, 94:10, 94:17, 95:3, 95:14, 97:13, 97:14, 97:15, 98:4, 98:8, 99:4, 99:22, 102:18, 104:6, 105:15, 110:3, 112:25, 113:14, 115:18, 117:7, 122:17, 124:2, 124:14, 125:14, 125:16, 126:17, 132:7, 136:4, 138:22, 139:17, 140:9, 140:21, 142:5, 142:8, 142:23, 145:18, 148:14, 150:8  
**update** [1] - 50:21  
**upon** [12] - 6:22, 8:11, 8:16, 9:22, 15:18, 16:15, 17:12, 21:23, 29:9, 128:14, 128:18, 132:24  
**uproot** [1] - 78:7  
**upset** [3] - 125:1, 125:2, 138:15  
**upside** [1] - 112:19  
**us** [29] - 43:4, 44:1, 46:13, 48:23, 54:12, 62:2, 62:23, 66:17, 68:16, 69:22, 70:22, 88:2, 100:14, 113:17, 117:5, 118:1, 118:9, 127:18, 127:19, 128:2, 128:21, 130:13, 130:14, 133:22,

142:12, 147:22, 150:9, 150:16  
**use** [21] - 13:3, 25:18, 25:21, 54:13, 54:18, 57:2, 57:8, 57:9, 63:10, 67:2, 67:6, 69:2, 77:4, 104:7, 111:19, 112:24, 119:7, 120:4, 136:12, 141:23, 144:2  
**used** [15] - 10:11, 20:1, 20:20, 20:24, 28:5, 28:9, 31:3, 31:12, 39:13, 44:11, 64:1, 68:24, 93:16, 119:10, 140:9  
**users** [1] - 140:11  
**uses** [5] - 43:21, 54:20, 66:1, 111:19, 141:20  
**using** [4] - 57:10, 68:9, 128:3, 148:5  
**usually** [3] - 85:24, 145:4, 154:5

## V

**vacation** [1] - 71:7  
**Valdez** [2] - 78:25, 79:7  
**Valley** [3] - 109:19, 110:3, 114:5  
**value** [2] - 47:13, 73:22  
**varies** [1] - 122:10  
**vast** [1] - 134:15  
**Vega** [10] - 74:18, 75:7, 75:9, 75:12, 75:14, 75:18, 78:14, 79:15, 79:18, 114:8  
**vehicle** [5] - 13:22, 54:13, 71:21, 73:20, 106:5  
**vehicles** [3] - 111:5, 140:10, 140:11  
**Vehicles** [1] - 125:5  
**Veneno** [4] - 60:10, 60:15, 86:13, 97:7  
**venture** [7] - 33:16, 33:18, 33:20, 33:21, 33:24, 33:25, 34:2  
**verdict** [23] - 6:3, 6:21, 8:3, 10:2, 16:13, 17:6, 17:19, 22:14, 30:1, 34:6, 34:7, 34:10, 34:21, 35:4, 35:9, 35:18, 35:20, 35:22, 37:11, 37:12, 145:7  
**verified** [1] - 139:22  
**verify** [1] - 139:16  
**version** [1] - 88:22  
**versus** [2] - 74:16, 109:5  
**very** [17] - 14:3, 54:24, 59:2, 66:11, 72:15, 89:3, 91:2, 94:13, 111:18, 112:16, 117:13, 119:6, 122:16, 133:19, 142:9, 142:21  
**vest** [1] - 58:24  
**via** [1] - 1:25  
**viciously** [1] - 69:23  
**victim** [6] - 51:25, 52:4, 53:19, 53:24, 54:22, 140:9  
**victims** [3] - 51:14, 51:19, 52:22  
**victims's** [1] - 31:10  
**Victor** [1] - 25:25  
**video** [1] - 72:10  
**videos** [1] - 91:21  
**views** [1] - 91:7  
**VILLARREAL** [1] - 1:7  
**Villarreal** [75] - 18:25, 19:6, 19:8, 19:16, 22:22, 23:2, 23:9, 23:11, 23:25, 24:4, 24:8, 24:12, 24:15, 24:21, 25:1, 25:14, 25:17, 25:20, 26:2, 26:5, 26:7,

26:13, 30:9, 30:16, 30:19, 30:21, 30:23, 30:25, 31:24, 32:1, 35:25, 37:3, 37:8, 38:6, 41:3, 41:14, 44:7, 52:14, 52:16, 57:1, 58:22, 85:21, 89:1, 95:7, 95:16, 102:4, 109:6, 109:7, 112:9, 113:10, 113:16, 113:17, 114:4, 122:8, 122:22, 123:6, 124:12, 124:20, 126:8, 128:22, 134:23, 138:21, 139:12, 139:16, 139:19, 139:25, 140:5, 141:8, 141:13, 142:22, 142:25, 143:3, 143:9, 149:4, 149:8  
**Villarreal's** [3] - 125:6, 135:3, 135:14  
**vindication** [1] - 15:7  
**violate** [1] - 33:9  
**violation** [1] - 18:8  
**violence** [1] - 136:12  
**virtually** [1] - 5:10  
**visit** [1] - 144:19  
**visited** [1] - 132:15  
**visiting** [1] - 79:16  
**voice** [2] - 4:20, 91:16  
**voir** [1] - 133:4  
**voluntarily** [7] - 20:22, 21:1, 28:7, 28:10, 31:5, 31:14, 33:8  
**voluntary** [1] - 111:6  
**volunteered** [1] - 97:20  
**VS** [1] - 1:5

## W

**waistband** [1] - 56:1  
**wait** [2] - 145:16, 153:2  
**waiting** [1] - 76:16  
**waitresses** [1] - 39:17  
**walked** [1] - 88:15  
**walking** [2] - 95:10, 115:14  
**want** [58] - 4:19, 17:25, 39:7, 40:4, 40:12, 41:4, 41:9, 45:8, 47:23, 49:5, 49:9, 49:24, 50:7, 58:15, 59:23, 61:9, 63:14, 64:3, 68:12, 69:4, 69:14, 70:21, 75:17, 77:5, 79:19, 80:7, 89:19, 89:21, 92:20, 94:1, 94:2, 94:16, 99:4, 105:8, 111:14, 113:6, 125:3, 130:19, 131:14, 133:22, 134:4, 134:12, 136:13, 137:2, 141:10, 141:13, 141:16, 143:5, 145:1, 145:20, 148:12, 149:13, 149:18, 149:21, 150:5, 152:6, 153:4, 154:19  
**wanted** [11] - 4:16, 69:2, 77:24, 86:6, 92:15, 92:18, 92:19, 94:13, 94:19, 120:4, 127:4  
**wants** [6] - 43:3, 63:10, 67:6, 103:12, 142:19, 148:2  
**war** [1] - 97:9  
**warehouse** [1] - 49:14  
**warning** [1] - 134:2  
**warrant** [1] - 53:24  
**warring** [1] - 90:5  
**was** [308] - 6:24, 11:5, 11:25, 13:19, 13:22, 18:13, 18:19, 20:21, 20:25, 22:12, 22:16, 24:9, 28:6, 28:10, 28:14,

29:25, 30:3, 31:1, 31:4, 31:13, 31:24, 33:1, 33:7, 33:13, 37:14, 38:14, 38:15, 38:17, 38:21, 38:22, 39:1, 39:2, 39:10, 39:11, 39:15, 39:18, 40:3, 40:16, 42:7, 42:15, 42:17, 44:10, 44:13, 44:14, 45:3, 45:7, 49:7, 50:1, 52:14, 53:3, 53:5, 53:7, 53:19, 55:7, 55:11, 55:12, 55:14, 55:16, 55:18, 56:2, 56:3, 56:6, 58:3, 58:6, 58:9, 58:16, 58:17, 58:18, 59:2, 59:9, 59:10, 59:14, 60:4, 60:6, 60:20, 61:17, 62:18, 63:8, 63:9, 64:6, 65:3, 65:10, 65:12, 65:14, 65:19, 66:6, 66:21, 66:22, 69:21, 69:22, 70:2, 70:8, 70:13, 71:25, 72:5, 72:10, 73:9, 73:12, 73:17, 73:24, 74:4, 74:8, 74:10, 74:16, 74:22, 75:12, 75:19, 76:7, 76:12, 76:15, 77:11, 78:13, 78:16, 78:17, 78:19, 79:1, 79:15, 80:11, 80:14, 80:22, 80:23, 81:10, 82:10, 82:12, 82:17, 82:21, 82:22, 82:24, 82:25, 83:2, 83:4, 84:16, 85:19, 85:20, 85:21, 86:5, 86:6, 86:10, 86:14, 86:15, 87:8, 88:11, 88:12, 88:20, 89:14, 89:24, 90:3, 90:15, 91:1, 91:14, 91:16, 92:8, 92:12, 92:16, 92:24, 93:8, 93:18, 94:3, 95:3, 95:13, 95:20, 95:22, 96:6, 96:7, 96:13, 96:15, 96:20, 97:1, 97:5, 97:7, 97:12, 97:13, 97:14, 97:23, 97:25, 98:7, 98:11, 98:12, 98:13, 98:17, 98:18, 98:22, 98:24, 99:1, 99:21, 100:10, 100:19, 100:20, 100:23, 101:21, 102:1, 102:6, 102:9, 102:10, 102:18, 102:19, 103:4, 103:9, 103:20, 103:21, 104:3, 104:5, 104:7, 104:14, 106:12, 106:14, 106:15, 106:25, 107:16, 107:17, 107:24, 108:1, 109:16, 109:19, 113:10, 114:4, 114:5, 114:6, 114:8, 114:9, 114:11, 114:23, 115:2, 117:16, 117:17, 117:21, 117:22, 117:24, 118:4, 118:5, 118:10, 118:13, 118:14, 118:19, 118:24, 118:25, 119:1, 119:19, 119:23, 119:25, 120:1, 120:2, 120:10, 120:11, 120:20, 121:6, 121:17, 121:20, 122:1, 122:4, 122:15, 122:16, 122:17, 123:13, 123:20, 124:5, 124:12, 125:1, 125:2, 126:2, 127:1, 127:3, 134:23, 135:4, 135:11, 135:16, 136:1, 136:3, 137:5, 138:16, 138:25, 139:18, 139:22, 140:10, 142:1, 142:2, 142:20, 143:6, 146:19, 148:14, 152:15, 153:5

**wasn't** [15] - 59:8, 64:24, 72:12, 75:15, 77:8, 77:12, 88:2, 91:1, 92:12, 96:24, 97:21, 101:14, 105:23, 119:15, 124:12

**watching** [1] - 143:8

**waters** [2] - 31:21, 31:22

**wave** [1] - 124:14

**way** [22] - 6:24, 12:15, 17:22, 22:9, 29:20, 32:19, 47:6, 62:1, 62:12, 65:8, 67:11, 79:12, 97:18, 97:24, 107:8, 118:13, 118:14, 118:19, 122:11, 124:20, 140:12, 140:15

**We** [2] - 66:2, 151:8

**we** [231] - 4:4, 4:5, 4:6, 4:9, 5:8, 5:9, 5:10, 35:24, 37:2, 37:7, 38:24, 39:6, 45:6, 45:16, 46:20, 49:3, 49:9, 49:20, 50:7, 50:21, 51:13, 53:24, 54:25, 55:1, 56:3, 56:4, 56:25, 57:2, 57:20, 57:21, 58:3, 58:4, 58:6, 58:15, 60:4, 60:5, 61:10, 61:11, 62:1, 62:7, 62:8, 62:9, 62:24, 64:5, 64:7, 65:5, 66:1, 66:2, 66:18, 67:11, 67:14, 70:6, 70:20, 71:6, 71:7, 71:8, 71:9, 75:5, 75:24, 76:10, 76:24, 76:25, 77:1, 77:23, 77:24, 78:9, 80:17, 80:23, 81:2, 81:5, 82:4, 82:5, 82:6, 82:9, 83:7, 84:7, 85:1, 85:13, 86:2, 86:9, 86:13, 86:18, 86:19, 86:20, 86:21, 86:22, 87:10, 87:12, 87:14, 87:16, 87:17, 87:18, 87:20, 87:22, 87:24, 88:2, 88:5, 88:6, 89:17, 89:18, 90:13, 90:22, 90:23, 92:8, 92:22, 95:20, 95:23, 95:24, 96:17, 97:11, 97:15, 98:3, 98:16, 99:3, 99:8, 99:10, 99:16, 100:17, 101:8, 101:9, 101:10, 101:20, 103:8, 103:10, 103:23, 104:8, 104:11, 104:13, 104:25, 105:1, 105:19, 106:10, 106:19, 106:20, 106:21, 107:9, 107:11, 107:20, 107:24, 107:25, 109:7, 109:13, 109:23, 110:8, 111:8, 112:1, 112:2, 113:9, 113:18, 114:3, 115:18, 118:8, 118:12, 120:20, 124:25, 125:9, 127:19, 127:23, 127:25, 129:1, 131:1, 131:5, 131:7, 131:18, 131:19, 131:20, 131:22, 132:7, 132:9, 133:3, 135:11, 137:3, 139:20, 141:11, 142:20, 143:3, 143:25, 145:6, 145:14, 146:16, 148:4, 148:10, 148:13, 148:25, 149:2, 149:6, 149:15, 149:20, 149:21, 149:24, 150:1, 150:8, 150:11, 150:25, 151:9, 151:15, 151:16, 151:17, 151:19, 151:21, 151:22, 152:24, 153:4, 153:15, 154:6, 154:12

**we'd** [1] - 57:4

**we'll** [6] - 5:6, 116:2, 150:11, 151:13, 153:10, 154:24

**we're** [28] - 5:18, 43:25, 49:8, 50:11, 51:5, 51:6, 53:21, 53:23, 58:14, 60:16, 61:19, 63:4, 65:2, 78:6, 81:23, 82:18, 95:14, 95:25, 120:21, 125:18, 129:9, 130:13, 130:14, 131:1, 131:2, 143:19, 149:12, 151:18

**we've** [14] - 38:1, 38:7, 39:5, 52:18, 90:12, 93:6, 94:24, 101:5, 104:6, 114:7, 128:25, 145:21, 148:4, 151:16

**weapons** [2] - 67:5, 97:20

**wear** [1] - 103:7

**wearing** [1] - 65:1

**weeds** [2] - 90:1, 90:2

**week** [5] - 38:8, 52:19, 79:5, 79:11, 149:12

**weekend** [10] - 55:7, 73:9, 74:4, 74:9, 74:10, 74:14, 78:16, 101:8, 114:6, 114:13

**weeks** [3] - 54:11, 54:20, 143:19

**weigh** [2] - 11:5, 146:25

**weighed** [4] - 12:14, 15:7, 15:16, 16:14

**weight** [10] - 10:18, 11:3, 11:20, 13:10, 14:2, 16:12, 16:23, 34:19, 69:14

**weird** [1] - 42:16

**Well** [3] - 44:3, 72:14, 110:8

**well** [62] - 44:17, 45:6, 45:10, 49:8, 49:25, 54:5, 65:15, 66:13, 72:15, 75:1, 77:12, 84:7, 90:22, 99:1, 99:7, 100:2, 102:11, 104:15, 111:8, 111:23, 114:9, 115:12, 115:18, 116:7, 116:16, 118:1, 118:2, 118:3, 118:12, 118:21, 118:22, 119:13, 119:14, 121:17, 121:20, 121:21, 123:17, 123:23, 124:25, 126:19, 127:16, 129:19, 130:16, 130:19, 130:21, 130:22, 131:1, 131:3, 131:6, 138:6, 138:9, 138:12, 138:20, 138:25, 141:21, 141:25, 147:13, 147:17, 148:19, 151:15, 153:3

**went** [22] - 40:21, 52:18, 56:3, 59:24, 70:8, 70:11, 71:7, 71:12, 72:11, 74:20, 76:25, 92:19, 100:17, 101:10, 102:10, 115:13, 117:1, 117:25, 118:20, 128:25, 135:5, 135:8

**Were** [1] - 52:10

**were** [82] - 5:8, 8:19, 9:5, 12:25, 13:1, 13:14, 13:15, 15:24, 17:7, 17:9, 21:23, 21:25, 29:9, 29:11, 34:18, 39:16, 39:17, 49:1, 51:24, 52:20, 53:8, 53:9, 53:14, 54:3, 54:25, 55:1, 55:8, 58:5, 59:8, 59:10, 61:6, 66:17, 67:15, 68:21, 69:11, 69:21, 74:12, 74:19, 74:20, 76:24, 78:11, 78:15, 79:16, 79:17, 79:23, 87:22, 90:13, 91:15, 92:23, 93:4, 93:10, 93:20, 95:18, 96:14, 96:15, 100:3, 103:22, 106:23, 107:13, 114:17, 117:24, 118:21, 119:8, 120:17, 121:18, 126:4, 132:13, 132:25, 133:9, 134:21, 135:9, 136:20, 137:6, 139:24, 140:8, 140:10, 140:13, 144:22, 146:19, 155:2

**weren't** [6] - 56:4, 90:11, 120:20, 125:23, 128:1, 129:2

**West** [5] - 1:19, 2:2, 46:5, 77:25, 78:7

**what** [190] - 5:24, 6:11, 6:18, 9:22, 9:25, 10:19, 11:24, 12:13, 12:17, 17:21, 39:10, 39:22, 42:11, 44:22, 44:24, 47:12, 48:15, 49:5, 51:3, 51:24, 53:14, 53:25, 56:6, 57:16, 57:22, 58:15, 58:20, 58:25, 60:20, 62:4, 65:8, 65:14, 66:5, 66:6, 66:8, 66:12, 66:20, 66:21, 67:3, 67:7, 67:16, 69:3, 69:21, 70:23, 70:24, 71:5, 71:6, 72:22, 72:25, 73:17, 75:16, 76:12, 78:19, 78:20, 79:14, 81:5, 83:2, 85:20, 86:4, 86:6, 88:16, 89:14, 89:19, 89:21, 89:23, 90:6, 90:19, 91:5, 92:16, 92:20, 92:21, 93:21, 94:8, 95:5, 95:9, 95:10, 95:11, 95:13, 96:7, 96:13, 96:17, 97:11, 97:15, 98:21, 99:13, 103:13, 104:2, 104:20, 104:25, 107:10, 107:20,

108:4, 108:11, 108:19, 109:2, 110:2, 112:4, 112:13, 113:6, 113:14, 113:25, 114:1, 114:11, 114:13, 114:17, 115:11, 115:25, 116:1, 116:2, 116:24, 117:14, 119:3, 119:15, 120:9, 120:17, 120:20, 121:11, 121:12, 122:6, 122:13, 123:10, 123:11, 124:2, 124:14, 124:15, 126:15, 126:21, 127:9, 128:20, 128:21, 128:22, 128:23, 129:13, 129:18, 130:1, 130:5, 130:21, 130:25, 131:9, 131:11, 131:25, 132:2, 132:4, 132:7, 132:9, 132:10, 132:19, 132:22, 133:4, 134:4, 134:22, 134:24, 134:25, 135:2, 135:19, 135:21, 136:8, 136:13, 136:16, 136:19, 136:21, 137:8, 137:14, 141:10, 141:21, 143:7, 143:21, 145:1, 145:8, 146:24, 147:3, 147:22, 148:14, 148:15, 149:15, 149:16, 150:4, 150:25, 151:13, 151:22, 152:8, 152:15, 153:5

**what's** [13] - 47:3, 70:15, 79:14, 90:2, 93:13, 102:13, 103:24, 103:25, 108:13, 120:21, 122:21, 123:17

**whatever** [8] - 13:10, 89:24, 111:25, 122:6, 138:16, 141:5, 148:2

**whatsoever** [6] - 60:1, 65:16, 67:19, 80:25, 117:8, 123:21

**when** [99] - 5:19, 13:22, 15:2, 16:21, 34:25, 37:17, 41:16, 45:13, 45:19, 45:22, 47:12, 51:17, 52:22, 55:18, 55:19, 56:14, 56:19, 58:11, 59:7, 65:19, 66:16, 69:7, 69:20, 69:23, 72:14, 72:18, 73:6, 76:3, 76:4, 77:4, 79:1, 79:17, 80:1, 80:9, 86:10, 87:1, 87:5, 87:12, 89:21, 90:10, 91:9, 92:8, 92:25, 93:13, 93:16, 96:7, 97:19, 109:3, 109:4, 110:21, 114:5, 114:8, 114:9, 114:10, 116:7, 116:11, 117:15, 117:17, 117:23, 117:24, 118:15, 119:8, 119:24, 122:2, 123:4, 123:13, 123:16, 123:18, 124:12, 128:23, 134:14, 134:20, 134:22, 135:4, 137:17, 137:21, 138:4, 139:10, 139:19, 140:2, 140:25, 141:2, 141:4, 142:13, 142:14, 142:16, 143:7, 143:10, 145:6, 145:19, 146:3, 149:4, 149:11, 150:1, 150:2, 150:10, 151:22, 154:4

**When** [1] - 46:18

**whenever** [1] - 109:16

**where** [52] - 38:9, 38:21, 40:4, 42:25, 43:9, 43:12, 43:15, 44:22, 47:7, 48:12, 48:22, 49:14, 49:20, 51:13, 54:21, 59:21, 63:25, 64:16, 66:25, 67:5, 68:23, 74:8, 74:9, 76:20, 102:14, 105:5, 105:6, 106:1, 106:2, 107:12, 107:21, 114:17, 114:18, 117:24, 118:17, 124:12, 124:13, 125:7, 126:3, 126:7, 126:10, 134:17, 136:4, 136:8, 139:18, 140:10, 141:7, 145:25, 153:5

**Where** [1] - 41:9

**where's** [2] - 113:25, 125:8

**whether** [40] - 10:20, 10:22, 11:13,

11:23, 13:4, 13:6, 14:9, 14:18, 14:25, 15:2, 15:10, 16:24, 22:11, 22:12, 29:23, 29:24, 34:6, 34:23, 39:1, 45:2, 53:7, 69:4, 69:7, 69:14, 77:4, 106:20, 117:20, 126:13, 128:4, 128:6, 130:12, 137:19, 140:5, 140:6, 142:12, 142:13, 142:14, 142:15, 145:2

**which** [35] - 6:4, 11:12, 12:8, 12:22, 13:13, 13:14, 14:12, 14:21, 17:24, 21:6, 25:8, 25:9, 28:17, 36:9, 36:16, 49:15, 53:18, 55:6, 77:11, 81:11, 81:16, 85:14, 85:20, 86:6, 96:1, 97:3, 98:12, 107:22, 111:19, 118:13, 121:6, 126:1, 146:18, 147:12, 150:23

**while** [9] - 8:5, 48:3, 48:25, 53:8, 120:11, 120:15, 120:16, 146:1

**white** [2] - 139:21, 140:8

**who** [124] - 10:24, 11:22, 15:4, 15:23, 15:24, 16:9, 20:4, 20:7, 22:8, 22:9, 29:19, 29:20, 35:2, 37:20, 38:23, 39:15, 41:2, 41:13, 43:3, 44:4, 47:14, 48:3, 48:23, 49:3, 49:7, 49:25, 50:2, 51:12, 51:15, 54:3, 54:8, 54:17, 56:10, 56:17, 56:20, 57:1, 57:3, 57:13, 57:21, 59:24, 59:25, 60:10, 60:12, 60:13, 60:16, 63:8, 63:9, 64:21, 66:12, 66:24, 66:25, 68:21, 73:3, 73:19, 74:3, 74:5, 77:16, 77:18, 78:1, 78:15, 82:7, 84:17, 86:13, 87:25, 88:3, 88:23, 89:21, 90:13, 92:24, 93:3, 94:9, 94:12, 94:13, 94:24, 95:18, 97:13, 98:17, 101:2, 101:20, 102:17, 103:10, 104:1, 104:8, 105:19, 106:11, 106:12, 107:7, 107:17, 109:19, 111:13, 111:14, 111:15, 116:20, 118:4, 119:5, 120:2, 120:23, 125:17, 126:25, 127:2, 127:3, 127:11, 128:25, 132:9, 135:25, 136:18, 136:22, 136:23, 139:13, 139:23, 140:10, 140:13, 140:21, 141:17, 143:6, 143:10, 149:5, 154:7, 154:10

**who's** [2] - 52:11, 66:4

**whoever** [1] - 134:18

**whole** [7] - 50:1, 52:17, 78:2, 79:22, 95:22, 150:3, 152:12

**whom** [4] - 15:22, 89:25, 116:19, 127:12

**why** [54] - 45:8, 46:9, 57:23, 58:15, 59:13, 65:5, 65:15, 65:24, 66:23, 66:24, 66:25, 69:17, 70:7, 70:10, 71:16, 72:13, 74:2, 75:1, 75:2, 75:17, 76:10, 77:1, 85:1, 86:18, 86:20, 86:23, 87:20, 92:16, 96:24, 108:15, 112:2, 116:5, 117:11, 123:7, 123:9, 124:2, 124:8, 132:19, 134:6, 137:3, 137:7, 137:8, 137:23, 138:18, 138:19, 138:21, 139:2, 147:24, 151:24

**widow** [1] - 70:1

**wife** [8] - 40:22, 60:2, 70:2, 72:6, 74:5, 79:16, 119:15, 141:24

**will** [42] - 4:4, 5:17, 6:3, 6:7, 11:21, 12:12, 17:11, 17:20, 17:21, 31:8, 34:9,

35:2, 35:5, 35:13, 35:20, 37:18, 37:22, 38:18, 38:22, 61:5, 71:10, 72:16, 75:20, 97:17, 112:11, 112:25, 115:20, 115:21, 119:16, 125:15, 131:16, 131:17, 133:8, 143:25, 145:8, 145:25, 149:25, 150:11, 151:21, 154:11

**willfully** [6] - 19:9, 20:24, 23:12, 28:9, 31:12, 80:4

**willing** [4] - 8:15, 71:14, 77:16, 128:17

**willingly** [3] - 30:25, 105:15, 107:3

**win** [1] - 115:8

**wire** [3] - 65:1, 68:25, 125:14

**wired** [1] - 65:4

**wiretap** [4] - 96:13, 96:15, 124:16, 124:18

**wiretaps** [17] - 95:20, 95:25, 99:20, 99:24, 100:19, 100:20, 100:22, 100:24, 101:4, 101:6, 101:7, 101:11, 101:16, 111:7, 111:9, 124:17

**wisdom** [1] - 6:15

**wish** [2] - 15:1, 150:22

**with** [238] - 4:12, 4:18, 5:1, 7:14, 7:25, 8:21, 12:6, 12:22, 13:5, 13:21, 14:4, 14:13, 15:8, 15:16, 15:22, 16:10, 16:14, 16:15, 17:3, 17:22, 18:5, 18:7, 18:10, 18:11, 18:13, 18:15, 18:22, 19:4, 19:9, 19:22, 19:23, 19:24, 20:19, 21:1, 21:2, 22:3, 22:4, 22:22, 23:12, 24:21, 25:1, 25:15, 26:3, 28:11, 28:12, 29:13, 29:15, 30:9, 31:10, 31:14, 31:15, 32:7, 32:13, 32:19, 32:20, 33:8, 33:15, 33:21, 34:11, 34:14, 35:11, 36:13, 37:15, 38:10, 39:9, 40:3, 40:5, 40:12, 40:21, 42:24, 43:6, 43:8, 43:9, 43:24, 45:21, 46:25, 47:2, 47:4, 47:6, 47:18, 48:4, 48:12, 49:2, 49:15, 49:20, 50:3, 50:4, 50:16, 51:7, 52:4, 52:19, 53:13, 53:22, 54:13, 54:23, 55:17, 55:21, 56:11, 56:12, 57:3, 58:9, 59:11, 59:25, 60:1, 60:5, 60:6, 60:12, 60:13, 60:23, 60:25, 61:5, 61:8, 61:17, 62:1, 62:5, 62:13, 62:14, 62:17, 62:19, 62:22, 63:4, 63:9, 65:3, 65:13, 65:22, 66:17, 67:14, 67:20, 68:8, 68:25, 70:13, 71:1, 73:16, 73:20, 74:18, 74:19, 76:12, 77:6, 77:22, 78:15, 79:16, 79:17, 79:25, 80:7, 83:11, 83:19, 83:20, 87:2, 88:10, 88:15, 89:1, 89:2, 89:3, 89:8, 90:5, 91:4, 91:6, 91:13, 91:14, 91:18, 92:24, 93:12, 94:3, 94:7, 95:4, 97:7, 100:18, 102:3, 102:4, 102:8, 102:18, 105:6, 105:11, 105:16, 106:4, 106:23, 108:3, 109:9, 109:16, 109:20, 110:3, 111:17, 112:2, 113:6, 114:24, 115:6, 115:23, 116:4, 116:15, 116:19, 116:24, 117:12, 117:23, 117:25, 118:5, 118:23, 119:4, 120:2, 121:14, 122:3, 124:18, 125:7, 125:19, 126:8, 126:9, 127:9, 127:15, 128:1, 129:20, 129:22, 133:14, 134:13, 135:20, 137:12, 137:18, 138:24, 139:12, 139:14, 140:4, 140:20, 143:5,

144:17, 145:11, 146:6, 147:23, 148:3, 149:3, 149:7, 149:8, 151:9, 152:22, 153:8, 153:11, 153:23, 154:9  
**within** <sup>[1]</sup> - 18:24  
**without** <sup>[21]</sup> - 6:22, 8:16, 16:2, 19:24, 21:8, 28:19, 30:24, 31:9, 62:12, 62:24, 63:13, 82:24, 126:17, 127:12, 128:18, 132:4, 132:5, 132:8, 132:17, 133:13, 133:14  
**witness** <sup>[45]</sup> - 9:25, 11:19, 12:3, 12:4, 12:5, 12:6, 12:7, 12:9, 12:13, 12:15, 12:17, 12:18, 12:19, 12:21, 12:22, 12:24, 13:6, 13:7, 13:8, 13:10, 14:25, 15:13, 15:19, 16:11, 52:7, 56:22, 57:13, 57:20, 58:16, 73:21, 74:5, 87:24, 95:23, 97:12, 111:23, 112:3, 116:9, 116:10, 116:12, 116:13, 116:14, 123:8, 147:20  
**witness'** <sup>[1]</sup> - 11:20  
**witness's** <sup>[5]</sup> - 12:10, 15:2, 15:10, 15:12, 147:6  
**witnesses** <sup>[52]</sup> - 6:6, 9:13, 11:22, 12:11, 14:23, 15:9, 15:22, 17:7, 17:9, 17:13, 54:4, 56:10, 56:14, 57:6, 57:21, 57:24, 57:25, 58:1, 58:11, 58:14, 59:12, 59:16, 61:20, 74:3, 74:18, 76:10, 79:20, 84:13, 85:19, 86:2, 86:9, 93:10, 101:23, 109:14, 113:9, 114:19, 114:21, 116:11, 116:18, 117:5, 117:6, 118:21, 134:9, 135:24, 136:8, 137:2, 137:4, 137:11, 139:6, 141:16, 142:10, 151:10  
**witnesses'** <sup>[1]</sup> - 116:24  
**woman** <sup>[3]</sup> - 39:18, 39:21, 78:15  
**women** <sup>[2]</sup> - 39:16, 117:20  
**won't** <sup>[4]</sup> - 54:19, 99:7, 99:8, 113:15  
**Wooden** <sup>[1]</sup> - 143:6  
**wooden** <sup>[1]</sup> - 53:14  
**word** <sup>[13]</sup> - 20:20, 20:24, 28:5, 28:9, 31:3, 31:12, 42:1, 69:1, 79:13, 105:2, 106:13, 114:1, 114:12  
**words** <sup>[7]</sup> - 7:15, 11:10, 33:3, 59:18, 93:15, 108:2, 109:1  
**wordy** <sup>[1]</sup> - 5:18  
**work** <sup>[14]</sup> - 5:20, 37:17, 44:11, 45:16, 55:17, 60:13, 63:3, 63:4, 63:16, 67:14, 68:8, 121:6, 127:2, 143:16  
**worked** <sup>[11]</sup> - 38:23, 39:16, 44:10, 56:11, 63:8, 75:11, 75:22, 91:4, 102:3, 105:6, 106:8  
**workers** <sup>[1]</sup> - 111:14  
**working** <sup>[23]</sup> - 40:3, 40:5, 40:23, 46:6, 55:15, 60:21, 60:23, 65:1, 66:17, 68:8, 68:22, 72:21, 76:9, 94:6, 96:10, 102:4, 102:9, 102:18, 114:23, 117:4, 117:9, 150:23  
**works** <sup>[5]</sup> - 44:4, 44:18, 44:21, 114:15  
**world** <sup>[1]</sup> - 138:4  
**worried** <sup>[3]</sup> - 63:7, 70:13, 84:7  
**worry** <sup>[3]</sup> - 5:18, 72:17, 100:9  
**would** <sup>[55]</sup> - 8:15, 9:25, 45:8, 46:9, 52:21, 52:22, 55:2, 57:5, 60:8, 63:17,

68:17, 72:20, 75:1, 87:23, 87:24, 87:25, 89:19, 99:3, 99:20, 100:11, 103:14, 103:16, 103:17, 112:4, 114:1, 115:13, 118:6, 119:3, 124:19, 124:23, 127:4, 127:13, 128:6, 128:8, 128:17, 130:6, 130:22, 132:4, 132:23, 132:24, 135:25, 138:12, 138:20, 138:21, 138:22, 146:23, 147:21, 147:24, 148:18, 149:2, 150:16, 154:6, 154:7, 154:19  
**wouldn't** <sup>[6]</sup> - 56:25, 87:14, 89:21, 98:4, 100:3, 100:4  
**wound** <sup>[1]</sup> - 51:10  
**wrapping** <sup>[1]</sup> - 48:9  
**write** <sup>[5]</sup> - 35:5, 35:12, 97:4, 110:14, 117:13  
**writes** <sup>[2]</sup> - 112:9, 112:13  
**writing** <sup>[2]</sup> - 35:9, 35:14  
**written** <sup>[1]</sup> - 144:1  
**wrong** <sup>[9]</sup> - 34:18, 54:1, 86:10, 87:5, 118:5, 129:12, 130:15, 147:9  
**wrote** <sup>[3]</sup> - 94:16, 110:21, 111:4

## Y

**y'all** <sup>[23]</sup> - 5:8, 117:12, 143:16, 143:22, 144:1, 144:7, 144:9, 145:11, 145:18, 145:19, 146:24, 148:8, 149:1, 150:22, 150:23, 150:24, 151:4, 151:6, 152:1, 152:3, 152:9, 153:24, 154:23  
**Yeah** <sup>[6]</sup> - 41:18, 42:6, 47:16, 47:21, 55:15, 56:7  
**yeah** <sup>[18]</sup> - 46:2, 53:9, 59:14, 64:6, 64:9, 68:4, 76:24, 97:17, 100:23, 101:10, 108:9, 116:22, 120:5, 130:18, 131:7, 132:9, 145:18, 152:19  
**year** <sup>[3]</sup> - 71:11, 77:9, 104:25  
**years** <sup>[29]</sup> - 45:19, 45:20, 45:22, 45:24, 51:24, 56:16, 60:8, 60:17, 60:24, 69:17, 73:10, 74:7, 74:11, 76:11, 76:19, 84:15, 88:4, 96:10, 104:10, 104:24, 106:3, 129:1, 139:12, 141:24, 142:16  
**years-long** <sup>[1]</sup> - 106:3  
**yes** <sup>[23]</sup> - 4:13, 4:14, 67:14, 67:21, 67:24, 80:7, 85:8, 93:8, 108:8, 113:11, 113:12, 113:13, 113:14, 117:18, 118:24, 133:23, 153:9, 154:1, 154:13, 154:25, 155:1  
**yesterday** <sup>[1]</sup> - 44:20  
**yesterday's** <sup>[1]</sup> - 85:17  
**yet** <sup>[2]</sup> - 58:1, 60:6  
**you** <sup>[77]</sup> - 4:4, 4:12, 4:15, 4:18, 4:19, 4:20, 5:1, 5:2, 5:3, 5:15, 5:16, 5:19, 5:23, 6:2, 6:3, 6:7, 6:8, 6:9, 6:10, 6:13, 6:14, 6:16, 6:17, 6:19, 6:23, 6:25, 7:3, 7:15, 7:17, 7:19, 7:21, 7:24, 8:15, 9:10, 9:11, 9:22, 9:24, 10:4, 10:8, 10:9, 10:10, 10:12, 10:14, 10:15, 10:20, 10:22, 11:4, 11:6, 11:9, 11:10, 11:11, 11:13, 11:15, 11:17, 11:18, 11:23, 12:1, 12:2, 12:13, 12:17, 13:1, 13:3, 13:4,

13:8, 13:10, 13:12, 13:24, 14:1, 14:2, 14:5, 14:7, 14:14, 14:16, 14:23, 14:24, 15:1, 15:2, 15:10, 15:15, 15:18, 15:19, 16:13, 16:15, 16:16, 16:22, 16:23, 16:24, 17:3, 17:11, 17:17, 17:21, 18:1, 18:2, 18:25, 19:1, 20:16, 20:17, 22:10, 22:13, 22:14, 22:15, 22:17, 23:2, 23:3, 23:21, 29:23, 29:25, 30:1, 30:2, 30:4, 30:16, 32:1, 32:3, 32:25, 33:3, 33:4, 33:5, 33:10, 33:11, 34:4, 34:7, 34:9, 34:12, 34:13, 34:18, 34:22, 34:25, 35:1, 35:3, 35:11, 35:14, 35:15, 35:18, 35:20, 36:3, 36:6, 36:9, 36:14, 36:16, 37:1, 37:6, 37:10, 37:14, 37:15, 37:16, 37:17, 37:18, 38:3, 38:25, 39:7, 39:8, 39:12, 39:14, 39:17, 39:21, 40:4, 40:6, 40:12, 40:20, 40:25, 41:4, 41:6, 41:9, 41:12, 41:16, 41:21, 41:23, 42:4, 42:6, 42:9, 42:12, 42:14, 42:16, 42:22, 42:23, 44:1, 44:13, 44:15, 44:19, 44:22, 44:24, 45:2, 45:6, 45:14, 45:15, 45:17, 45:18, 45:20, 45:23, 46:8, 46:24, 47:11, 47:17, 47:19, 47:22, 47:23, 48:9, 48:10, 48:17, 48:22, 48:24, 49:6, 49:11, 49:13, 49:25, 50:4, 50:7, 50:14, 50:24, 51:12, 52:4, 52:6, 52:10, 52:20, 53:9, 53:17, 54:4, 54:7, 54:11, 54:15, 54:19, 54:23, 55:3, 55:10, 55:11, 55:14, 56:25, 57:6, 57:7, 57:9, 57:14, 57:18, 57:22, 57:23, 57:24, 58:2, 58:10, 58:19, 58:25, 59:15, 59:20, 59:23, 59:25, 60:1, 60:8, 60:11, 60:19, 60:24, 61:5, 61:8, 61:9, 61:10, 61:11, 61:14, 61:17, 61:20, 61:23, 62:4, 62:5, 62:7, 62:17, 62:19, 62:23, 63:4, 64:5, 64:8, 64:9, 64:13, 64:16, 65:7, 65:15, 65:24, 66:9, 67:5, 69:4, 69:9, 69:10, 69:13, 69:14, 69:16, 69:20, 69:21, 70:17, 70:18, 70:21, 70:24, 71:1, 71:8, 71:13, 71:15, 71:16, 71:18, 71:20, 71:23, 71:24, 72:17, 72:19, 72:20, 72:22, 73:5, 73:6, 73:9, 73:21, 73:23, 73:25, 74:2, 74:9, 74:11, 74:12, 74:13, 74:14, 75:2, 75:7, 75:9, 75:11, 75:12, 75:13, 75:15, 75:17, 75:23, 76:9, 76:12, 76:18, 76:22, 77:4, 77:17, 77:23, 79:11, 79:12, 79:15, 79:17, 79:19, 79:23, 80:1, 80:3, 80:5, 80:6, 80:7, 80:9, 80:14, 80:16, 80:21, 81:4, 81:6, 81:10, 81:14, 81:15, 81:16, 81:24, 82:1, 82:15, 82:19, 83:10, 83:12, 83:18, 83:20, 83:22, 84:13, 84:22, 84:24, 84:25, 85:6, 85:16, 85:20, 86:5, 86:7, 86:9, 86:18, 86:22, 86:23, 87:3, 87:9, 87:10, 87:11, 87:22, 87:23, 87:24, 88:2, 88:3, 88:5, 88:6, 89:11, 89:12, 89:19, 89:21, 92:1, 92:7, 92:15, 92:17, 92:21, 92:24, 92:25, 93:20, 93:21, 94:3, 94:8, 94:20, 94:21, 95:7, 95:9, 95:10, 95:11, 95:13, 95:15, 95:24, 96:8, 96:9, 96:11, 96:12, 96:13, 96:14, 96:17, 96:18, 96:21, 97:6, 97:11, 97:13, 98:1, 98:24, 98:25, 99:4, 100:3,



100:6, 103:3, 103:6, 103:7, 103:13,  
 103:14, 103:15, 103:16, 103:23, 104:1,  
 104:16, 104:17, 105:9, 105:13, 106:19,  
 106:20, 106:22, 106:24, 107:7, 107:20,  
 107:22, 110:9, 110:10, 110:19, 110:24,  
 111:2, 111:18, 111:23, 111:24, 112:3,  
 112:4, 112:6, 112:14, 112:15, 112:17,  
 112:18, 112:21, 112:25, 113:3, 113:10,  
 113:15, 113:24, 114:2, 114:3, 114:9,  
 114:10, 114:11, 114:13, 114:22, 115:3,  
 115:7, 115:8, 115:10, 115:13, 115:16,  
 115:25, 116:1, 116:4, 116:7, 116:8,  
 116:9, 116:17, 116:23, 117:19, 117:20,  
 117:21, 117:22, 117:23, 117:24,  
 117:25, 118:1, 118:2, 118:12, 118:15,  
 118:17, 118:18, 118:22, 118:23,  
 118:25, 119:2, 119:8, 119:9, 119:14,  
 119:16, 120:5, 120:17, 120:20, 121:3,  
 121:4, 121:21, 121:22, 122:3, 122:11,  
 122:12, 122:13, 122:19, 123:7, 123:9,  
 123:12, 124:7, 124:11, 124:14, 124:21,  
 124:22, 125:4, 125:9, 125:12, 125:24,  
 126:12, 126:15, 126:18, 126:19,  
 126:20, 126:22, 126:23, 126:24, 127:3,  
 127:16, 127:18, 127:19, 128:3, 128:5,  
 128:7, 128:8, 128:9, 128:10, 128:11,  
 128:12, 128:17, 128:23, 129:2, 129:5,  
 129:11, 129:16, 129:17, 130:2, 130:5,  
 130:6, 130:9, 130:11, 130:14, 130:16,  
 130:19, 130:21, 131:2, 131:3, 131:6,  
 131:9, 131:11, 131:12, 131:13, 131:14,  
 131:16, 131:17, 131:21, 132:4, 132:6,  
 132:8, 132:23, 132:24, 133:2, 133:3,  
 133:5, 133:7, 133:8, 133:13, 133:17,  
 133:18, 133:20, 133:21, 133:22, 134:3,  
 134:6, 134:9, 134:25, 135:1, 135:12,  
 135:22, 136:3, 136:7, 136:8, 136:17,  
 136:19, 136:21, 136:23, 136:24, 137:8,  
 137:12, 137:24, 138:2, 138:20, 139:3,  
 139:10, 139:12, 140:16, 141:2, 141:10,  
 141:13, 141:16, 141:21, 141:25,  
 142:12, 142:19, 142:20, 143:3, 143:5,  
 143:12, 143:13, 143:14, 143:20, 144:3,  
 144:7, 144:10, 144:12, 144:14, 144:17,  
 144:18, 144:19, 144:21, 144:23,  
 144:24, 144:25, 145:1, 145:2, 145:5,  
 145:6, 145:8, 145:10, 145:11, 145:13,  
 145:20, 145:25, 146:7, 146:14, 146:15,  
 146:19, 146:22, 146:23, 147:1, 147:3,  
 148:4, 148:12, 148:14, 148:15, 148:16,  
 149:11, 149:22, 149:23, 149:25, 150:1,  
 150:2, 150:6, 150:16, 151:3, 151:5,  
 151:6, 151:7, 151:13, 151:21, 151:25,  
 152:6, 152:14, 153:2, 153:13, 153:22,  
 154:6, 154:7, 154:18, 154:19  
**you'd** <sup>[2]</sup> - 117:25, 128:8  
**you'll** <sup>[1]</sup> - 37:14  
**you're** <sup>[40]</sup> - 5:19, 11:7, 37:15, 45:13,  
 56:14, 56:16, 56:19, 56:22, 61:4, 63:18,  
 68:1, 69:7, 69:17, 70:17, 70:20, 70:21,  
 74:15, 77:4, 80:5, 80:9, 80:10, 81:14,

82:2, 96:9, 103:2, 117:23, 123:7, 123:8,  
 123:11, 127:18, 127:23, 127:24, 128:1,  
 128:2, 128:24, 130:25, 143:21, 144:3,  
 144:24, 145:9

**you've** <sup>[12]</sup> - 4:21, 37:6, 37:10, 46:18,  
 46:21, 112:13, 129:25, 130:23, 133:16,  
 143:15, 143:18, 151:14

**you-all** <sup>[1]</sup> - 39:8

**young** <sup>[1]</sup> - 78:3

**your** <sup>[98]</sup> - 4:20, 5:20, 5:24, 6:3, 6:9,  
 6:12, 6:17, 6:18, 6:21, 6:24, 7:16, 8:17,  
 9:10, 9:18, 9:19, 9:20, 10:2, 10:10,  
 10:11, 10:12, 10:13, 10:15, 10:21,  
 11:13, 11:21, 12:16, 13:9, 15:1, 17:6,  
 17:19, 17:22, 34:5, 34:7, 34:8, 34:10,  
 34:11, 34:14, 34:16, 34:17, 34:18,  
 34:20, 34:23, 35:1, 35:2, 35:4, 35:8,  
 35:11, 35:14, 45:14, 50:7, 57:17, 69:20,  
 75:2, 78:19, 79:14, 80:15, 81:7, 85:22,  
 89:20, 96:9, 98:12, 100:5, 103:3,  
 103:15, 105:9, 113:12, 115:8, 115:11,  
 117:21, 117:23, 117:24, 119:9, 119:10,  
 126:20, 128:3, 128:19, 129:19, 131:8,  
 131:10, 132:1, 132:5, 132:25, 143:23,  
 144:3, 145:3, 145:10, 145:11, 145:24,  
 151:18, 151:25

**Your** <sup>[15]</sup> - 4:9, 37:22, 129:15, 133:23,  
 134:3, 145:14, 146:3, 147:11, 148:10,  
 150:14, 152:14, 153:9, 153:15, 154:25,  
 155:1

**yours** <sup>[1]</sup> - 129:21

**yourself** <sup>[5]</sup> - 12:2, 34:13, 45:6, 63:18,  
 119:14

## Z

**Zetas** <sup>[3]</sup> - 66:3, 90:6, 97:10